

Policy of the U.S. Toward Maritime Commerce
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THE DEPARTMENT OF STATE

POLICY OF THE UNITED STATES
TOWARD MARITIME COMMERCE
IN WAR

PREPARED BY
CARLTON SAVAGE
DIVISION OF RESEARCH AND PUBLICATION

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FOREWORD

This survey of the policy of the United States toward maritime commerce in war is based on the official documents listed on pages viii to xxii, the texts of which will be found on pages 163 to 896. In volume I, covering the period from 1776 to the beginning of the World War, attention is focused on the following problems: (1) enemy goods in neutral ships; (2) neutral goods in enemy ships; (3) definition of contraband of war; (4) continuous voyage; (5) validity of blockade; (6) immunity of private property at sea. Volume II continues the treatment of these problems and deals also with important related problems which arose during the years 1914 to 1918.

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CONTENTS

FOREWORD	Page iii
LIST OF DOCUMENTS	viii

NEUTRALITY

CHAPTER

I. THE DECLARATION OF LONDON IN 1914	3
American suggestion that the declaration be adopted	3
British order in council, August 20, 1914.	4
Proposed British order in council	7
Withdrawal of American suggestion	9
II. TRADE RESTRICTIONS OF THE ALLIES.	10
British order in council, October 29, 1914	10
Detention of American ships and cargoes, 1914	10
Working arrangement with Great Britain	14
American proposal of February 20, 1915	15
British order in council, March 11, 1915	16
Protest to Great Britain, October 21, 1915	21
Italian blockade measures in the Adriatic Sea	26
Interference with the mails	26
British black list and bunker control	29
Abandonment of the Declaration of London	32
III. CONTRABAND OF WAR.	34
Proclamation of neutrality, August 4, 1914	34
Food and grain	34
Public circular of August 15, 1914	35
Petroleum, cotton, turpentine and rosin	35
Definition of contraband	37
The <i>William P. Frye</i>	38
Sale of munitions to belligerents	40
IV. LOANS AND CREDITS TO BELLIGERENTS.	44
Statements on loans, August 1914	44
Credit arrangements	45
Anglo-French loan of 1915	46
Russian loan of 1916	47
Statement on loans, August 18, 1916	48
Federal Reserve Board statement, November 28, 1916	48
Telegram from Ambassador Page, March 5, 1917	49
Federal Reserve Board statement, March 8, 1917	49
V. WAR ZONES, SUBMARINES, AND ARMED MERCHANT SHIPS.	50
Mine-laying by belligerents, 1914	50
German area of war, 1915	52
The <i>Falaba</i>	53
The <i>Lusitania</i> and the <i>Arabic</i>	56

CHAPTER

V. WAR ZONES, SUBMARINES, AND ARMED MERCHANT SHIPS—Contd.	Page
Austria-Hungary and the <i>Ancona</i>	66
American proposal of January 18, 1916	68
<i>Lusitania</i> negotiations, 1916	72
Attack on the <i>Sussex</i>	75
German war zone, January 31, 1917	79
Severance of relations with Germany	81
Note regarding British danger area	82
Armed neutrality	83
Declaration of a state of war with Germany, April 6, 1917 . . .	85
BELLIGERENCY	
VI. CONTROL OF EXPORTS	89
Basis of cooperation with the Allies	89
Law of June 15, and proclamation of July 9, 1917	91
Conditions for commerce with neutrals	92
Proclamation of August 27, 1917	94
Embargo on exports to European neutrals	95
Principles insisted upon by President Wilson	96
Silk agreements	97
Agreement with Switzerland, December 5, 1917	98
Christmas concessions and temporary agreements	99
License requirements for all exports	101
Establishment of Allied Blockade Committee	104
Taking over of Netherland ships	105
Negotiations and agreement with Spain	106
Agreement with Norway	108
Allied agreements with Iceland and Sweden	110
Agreements with Denmark	112
Negotiations with the Netherlands	114
Agreements with the Netherlands	116
VII. CONTROL OF BUNKERS AND IMPORTS	119
General bunker policy	119
Rules for granting bunker licenses	121
Examination of neutral ships	123
Control of Spanish ships	125
The <i>Kronprins Gustaf Adolf</i> and the <i>Pacific</i>	128
Sailing ships	129
Censorship of mails	130
Control of imports	131
VIII. ENEMY TRADING LISTS	133
Early statements of policy	133
Trading with the Enemy Act	134
List for Latin America, December 5, 1917	134
Coordination of policy with the Allies	136
Description of War Trade Board lists	137
Conferences on enemy trading lists	139
Conferences on enemy trading licenses	140
Japanese participation in conferences	142
Policy toward Portugal	143
Proposed list for Switzerland	144

CHAPTER	Page
IX. GERMAN SAFE-CONDUCTS	146
Ships carrying supplies for Switzerland	146
Swedish ships	146
Proposal for a note to neutrals	147
Note of September 5, 1918.	149
X. INSTRUCTIONS FOR THE NAVY, JUNE 1917	151
Bases for the instructions	151
Blockade	151
Free ships, free goods	151
Contraband of war	151
Visit and search	153
Prizes	154
XI. OPERATIONS OF THE NAVY	155
The North Sea barrage	155
Treatment of neutral shipping	156
XII. FREEDOM OF THE SEAS	158
Statements of President Wilson.	158
Armistice negotiations	158
DOCUMENTS	163

LIST OF DOCUMENTS

	Page
1. The Declaration of London, February 26, 1909	163
2. Proclamation of Neutrality, August 4, 1914	179
3. The Secretary of State to the Vice President of the Board of Trade of Kansas City (D. F. Piazzek), August 5, 1914	184
4. The Secretary of State to the Ambassador in Great Britain (Page), August 6, 1914	185
5. The Ambassador in Germany (Gerard) to the Secretary of State, August 7, 1914	185
6. The Secretary of State to Representative John H. Stephens, August 8, 1914	186
7. The Secretary of State to the President, August 10, 1914	186
8. The Secretary of State to the British Chargé (Barclay), August 13, 1914	188
9. Public Circular Issued by the Department of State, August 15, 1914	189
10. The Secretary of State to J. P. Morgan and Company, August 15, 1914	194
11. The Ambassador in Great Britain (Page) to the Secretary of State, undated, received August 26, 1914	194
12. The Acting Secretary of State to Mr. William H. Libby, Septem- ber 22, 1914	197
13. The Acting Secretary of State to the Ambassador in Great Britain (Page), September 26, 1914	197
14. The Acting Secretary of State to the Ambassador in Great Britain (Page), September 28, 1914	205
15. Memorandum by the Acting Secretary of State, September 29, 1914	206
16. The Secretary of State to the Ambassador in Great Britain (Page), October 1, 1914	208
17. The Acting Secretary of State to the British Ambassador (Spring Rice), October 2, 1914	209
18. Press Release Issued by the Department of State, October 3, 1914	210
19. The Acting Secretary of State to the Ambassador in Great Britain (Page), October 4, 1914	211
20. Press Release Issued by the Department of State, October 15, 1914	212
21. The Ambassador in Great Britain (Page) to the Secretary of State, October 15, 1914	213
22. The Acting Secretary of State to the Ambassador in Great Britain (Page), October 16, 1914	215
23. The Acting Secretary of State to the Ambassador in Great Britain (Page), October 16, 1914	217
24. The President to the Ambassador in Great Britain (Page), October 16, 1914	219

	Page
25. The Ambassador in Great Britain (Page) to the Secretary of State, October 19, 1914	219
26. The Acting Secretary of State to the Ambassador in Great Britain (Page), October 22, 1914	221
27. Memorandum by the Counselor for the Department of State (Lansing) of a Conversation with the President, October 23, 1914	222
28. The Acting Secretary of State to the Ambassador in Great Britain (Page), October 24, 1914	223
29. The Acting Secretary of State to the British Ambassador (Spring Rice), October 29, 1914	223
30. The Acting Secretary of State to the Ambassador in Great Britain (Page), October 31, 1914	224
31. The British Ambassador (Spring Rice) to the Secretary of State, November 3, 1914	226
32. The Ambassador in Great Britain (Page) to the Secretary of State, November 3, 1914	227
33. The Acting Secretary of State to the British Ambassador (Spring Rice), November 7, 1914	231
34. The Secretary of State to the Minister in Norway (Schmedeman), November 10, 1914	233
35. The Secretary of State to the Ambassador in Great Britain (Page), November 10, 1914	233
36. The Secretary of State to the Ambassador in Great Britain (Page), December 3, 1914	234
37. The Ambassador in Great Britain (Page) to the Secretary of State, December 6, 1914	235
38. The Secretary of State to Diplomatic and Consular Officers, December 11, 1914	238
39. The Secretary of State to the British Ambassador (Spring Rice), December 24, 1914	239
40. The Secretary of State to the Ambassador in Great Britain (Page), December 26, 1914	240
41. The Department of State to the German Embassy, December 28, 1914	244
42. The Secretary of State to the Ambassador in Great Britain (Page), January 4, 1915	245
43. The Secretary of State to the Ambassador in Great Britain (Page), January 12, 1915	246
44. The Secretary of State to the Chairman of the Senate Committee on Foreign Relations (Stone), January 20, 1915	247
45. The Secretary of State to the Ambassador in Great Britain (Page), January 21, 1915	259
46. The Secretary of State to the Ambassador in Great Britain (Page), January 23, 1915	260
47. The Secretary of State to the Secretary of the Treasury (McAdoo), February 3, 1915	264
48. The German Ambassador (Bernstorff) to the Secretary of State, February 7, 1915	264
49. The Secretary of State to the Ambassador in Germany (Gerard), February 10, 1915	267
50. The Secretary of State to the Ambassador in Great Britain (Page), February 10, 1915	269

	Page
51. The Secretary of State to the Ambassador in Great Britain (Page), February 16, 1915	270
52. The Secretary of State to the Ambassador in Great Britain (Page), February 20, 1915	271
53. The Secretary of State to the Ambassador in Great Britain (Page), March 5, 1915	273
54. The Ambassador in Great Britain (Page) to the Secretary of State, March 15, 1915	274
55. The Ambassador in Great Britain (Page) to the Secretary of State, March 21, 1915	278
56. The Ambassador in Germany (Gerard) to the Secretary of State, March 21, 1915	279
57. The President to the Secretary of State, March 24, 1915	280
58. The Secretary of State to the Ambassador in Great Britain (Page), March 30, 1915	281
59. Press Release Issued by the Department of State, March 31, 1915	286
60. The Secretary of State to the Ambassador in Germany (Gerard), March 31, 1915	286
61. The Counselor for the Department of State (Lansing) to the Sec- retary of State, April 2, 1915	287
62. The Secretary of State to the President, April 2, 1915	289
63. The President to the Secretary of State, April 3, 1915	290
64. The Secretary of State to the President, April 3, 1915	291
65. The President to the Secretary of State, April 5, 1915	292
66. The Counselor for the Department of State (Lansing) to the Secretary of State, April 5, 1915	293
67. The Counselor for the Department of State (Lansing) to the Secretary of State, April 7, 1915	296
68. The Secretary of State to the German Ambassador (Bernstorff), April 21, 1915	297
69. The President to the Secretary of State, April 22, 1915	299
70. The Secretary of State to Mr. Alvin Untermeyer, April 24, 1915 .	300
71. The Secretary of State to the Ambassador in Germany (Gerard), April 28, 1915	301
72. The Counselor for the Department of State (Lansing) to the Sec- retary of State, May 1, 1915	303
73. The Counselor for the Department of State (Lansing) to the Secre- tary of State, May 3, 1915	305
74. The Counselor for the Department of State (Lansing) to the Secre- tary of State, May 5, 1915	306
75. The Assistant Secretary of the Treasury (Peters) to the Counselor for the Department of State (Lansing), May 8, 1915 . . .	307
76. The Ambassador in Great Britain (Page) to the Secretary of State, May 8, 1915	308
77. The Counselor for the Department of State (Lansing) to the Secre- tary of State, May 9, 1915	309
78. The Secretary of State to the President, May 10, 1915	311
79. The President to the Secretary of State, May 10, 1915	311
80. Memorandum by the Counselor for the Department of State (Lansing), May 10, 1915	311
81. The Counselor for the Department of State (Lansing) to the Secretary of State, May 10, 1915	313

	Page
82. The Secretary of State to the President, May 10, 1915	314
83. The President to the Secretary of State, May 11, 1915	314
84. The Secretary of State to the Ambassador in Germany (Gerard), May 13, 1915	315
85. The Counselor for the Department of State (Lansing) to the Secretary of State, May 14, 1915	318
86. The Counselor for the Department of State (Lansing) to the Secretary of State, May 15, 1915	319
87. The Counselor for the Department of State (Lansing) to the President, May 17, 1915	321
88. The Secretary of State to the Ambassador in Germany (Gerard), May 23, 1915.	323
89. The Ambassador in Germany (Gerard) to the Secretary of State, May 25, 1915.	324
90. The Department of State to the Italian Embassy, May 25, 1915 .	325
91. The Secretary of State to the Ambassador in Germany (Gerard), May 27, 1915	325
92. Memorandum by the Counselor for the Department of State (Lansing), May 27, 1915	326
93. The Ambassador in Germany (Gerard) to the Secretary of State, May 29, 1915	327
94. The Counselor for the Department of State (Lansing) to the Secretary of State, June 1, 1915	330
95. The Counselor for the Department of State (Lansing) to the Secretary of State, June 2, 1915	331
96. The Collector of Customs of the Port of New York (Malone) to the Secretary of the Treasury (McAdoo), June 4, 1915 . . .	332
97. The Secretary of State ad interim to the Ambassador in Germany (Gerard), June 9, 1915	340
98. The Secretary of State to the Ambassador in Germany (Gerard), June 24, 1915	344
99. The Austro-Hungarian Minister of Foreign Affairs (Burian) to the American Ambassador (Penfield), June 29, 1915. . . .	347
100. The Secretary of State to the President, July 8, 1915.	350
101. The Ambassador in Germany (Gerard) to the Secretary of State, July 8, 1915.	351
102. The President to the Secretary of State, July 13, 1915.	355
103. The Secretary of State to the President, July 14, 1915.	356
104. The Secretary of State to the Ambassador in Great Britain (Page), July 14, 1915.	358
105. The Secretary of State to the Ambassador in Great Britain (Page), July 15, 1915.	358
106. The Secretary of State to the President, July 15, 1915.	359
107. The Secretary of State to the Ambassador in Germany (Gerard), July 21, 1915	361
108. The Secretary of State to the Ambassador in Great Britain (Page), July 28, 1915.	363
109. The Secretary of State to the President, August 2, 1915.	364
110. The President to the Secretary of State, August 5, 1915.	364
111. The Secretary of State to the President, August 6, 1915.	365
112. The Secretary of State to the Ambassador in Germany (Gerard), August 10, 1915	367

	Page
113. The Secretary of State to the Ambassador in Austria-Hungary (Penfield), August 12, 1915	368
114. The Secretary of the Treasury (McAdoo) to the Secretary of State, August 23, 1915	374
115. The Secretary of State to the President, August 24, 1915	375
116. The Secretary of State to the President, August 25, 1915	377
117. The President to the Secretary of State, August 26, 1915	377
118. The President to the Secretary of State, August 27, 1915	377
119. The German Ambassador (Bernstorff) to the Secretary of State, September 1, 1915	378
120. The Secretary of State to the President, September 6, 1915	378
121. The Ambassador in Germany (Gerard) to the Secretary of State, September 7, 1915	381
122. The Ambassador in Great Britain (Page) to the Secretary of State, September 8, 1915	382
123. The President to the Secretary of State, September 10, 1915	383
124. The President to the Secretary of State, September 10, 1915	383
125. The Secretary of State to the President, September 12, 1915	384
126. The President to the Secretary of State, September 13, 1915	385
127. The Secretary of State to the Secretary to the President (Tumulty), September 16, 1915	385
128. The Acting Secretary of State to the Ambassador in Germany (Gerard), September 20, 1915	386
129. The Secretary of State to the German Ambassador (Bernstorff), October 6, 1915	387
130. The Secretary of State to the Ambassador in Germany (Gerard), October 12, 1915	388
131. The Secretary of State to the Ambassador in Great Britain (Page), October 21, 1915	390
132. The Secretary of State to the President, November 2, 1915	408
133. The Secretary of State to the Ambassador in Italy (Page), November 2, 1915	410
134. The Secretary of State to the President, November 11, 1915	412
135. Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), November 17, 1915	413
136. The Secretary of State to the President, November 19, 1915	414
137. The President to the Secretary of State, November 21, 1915	416
138. The German Ambassador (Bernstorff) to the Secretary of State, November 25, 1915	416
139. The Secretary of State to the Ambassador in Austria-Hungary (Penfield), December 6, 1915	418
140. The Ambassador in Austria-Hungary (Penfield) to the Secretary of State, December 15, 1915	419
141. Memorandum by the Secretary of State of a Conversation with the Austro-Hungarian Chargé (Zwiedinek), December 18, 1915	421
142. The Secretary of State to the Ambassador in Austria-Hungary (Penfield), December 19, 1915	422
143. The Secretary of State to the German Ambassador (Bernstorff), December 20, 1915	423
144. Memorandum by the Secretary of State of a Conversation with the Austro-Hungarian Chargé (Zwiedinek), December 21, 1915	424

	Page
145. The Secretary of State to the President, December 21, 1915 . . .	425
146. The Secretary of State to the President, December 28, 1915 . . .	426
147. The President to the Secretary of State, December 29, 1915 . . .	427
148. Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), December 31, 1915 . . .	428
149. The Secretary of State to the President, January 2, 1916 . . .	430
150. The Secretary of State to the Ambassador in Great Britain (Page), January 4, 1916	432
151. The Secretary of State to the President, January 7, 1916 . . .	434
152. The Secretary of State to the President, January 7, 1916 . . .	436
153. The President to the Secretary of State, January 10, 1916 . . .	438
154. Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), January 10, 1916 . . .	439
155. The Secretary of State to the President, January 17, 1916 . . .	440
156. The Secretary of State to the British Ambassador (Spring Rice), January 18, 1916	441
157. The German Ambassador (Bernstorff) to the Secretary of State, January 22, 1916	444
158. The Secretary of State to the President, January 24, 1916 . . .	446
159. The President to the Secretary of State, January 24, 1916 . . .	447
160. The Secretary of State to the Ambassador in Great Britain (Page), January 25, 1916	448
161. The Ambassador in Great Britain (Page) to the Secretary of State, January 25, 1916	448
162. Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), January 25, 1916 . . .	450
163. Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), January 26, 1916 . . .	451
164. The Secretary of State to the President, January 27, 1916 . . .	453
165. The Ambassador in Germany (Gerard) to the Secretary of State, January 29, 1916	454
166. The Secretary of State to the President, February 4, 1916 . . .	455
167. The Secretary of State to the President, February 8, 1916 . . .	456
168. The Secretary of State to Diplomatic Officers in European Countries, February 16, 1916	457
169. The German Ambassador (Bernstorff) to the Secretary of State, February 16, 1916	458
170. The Secretary of State to the President, February 16, 1916 . . .	459
171. The President to the Secretary of State, February 16, 1916 . . .	460
172. Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), February 17, 1916 . . .	460
173. The Secretary of State to the Ambassador in Germany (Gerard), February 25, 1916	461
174. The Secretary of State to Representative Henry D. Flood, March 3, 1916	463
175. The Secretary of State to the Ambassador in Germany (Gerard), March 9, 1916	465
176. The Secretary of State to the President, March 27, 1916	468
177. The President to the Secretary of State, March 30, 1916	470
178. The Secretary of State to the Ambassador in Great Britain (Page), April 8, 1916	471
179. The Secretary of State to the President, April 12, 1916	472
180. The Secretary of State to the President, April 15, 1916	473

	Page
181. Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), April 18, 1916 . . .	473
182. The Secretary of State to the Ambassador in Germany (Gerard), April 18, 1916	476
183. Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), April 20, 1916 . . .	480
184. The Secretary of State to the President, April 24, 1916	484
185. The President to the Secretary of State, April 24, 1916	485
186. The Secretary of State to the President, April 25, 1916	485
187. Memorandum by the Secretary of State on the Status of Armed Merchant Vessels, Made Public April 26, 1916	487
188. The Secretary of State to the Ambassador in Germany (Gerard), April 28, 1916	492
189. The Secretary of State to the President, May 8, 1916	493
190. The Secretary of State to the Ambassador in Germany (Gerard), May 8, 1916	494
191. Press Release Issued by the Department of State, May 8, 1916 .	495
192. The Secretary of State to the President, May 10, 1916	496
193. The President to the Secretary of State, May 17, 1916	497
194. The Ambassador in Russia (Francis) to the Secretary of State, May 20, 1916	497
195. The Secretary of State to the French Ambassador (Jusserand), May 24, 1916	498
196. The Secretary of State to the Ambassador in Russia (Francis), June 8, 1916	504
197. The Ambassador in Russia (Francis) to the Secretary of State, June 19, 1916	505
198. The Acting Secretary of State to the Ambassador in Great Britain (Page), July 26, 1916	505
199. The Secretary of State to the Chargé in Great Britain (Laughlin), August 15, 1916	507
200. The Counselor for the Department of State (Polk) to Representative John J. Fitzgerald, August 18, 1916	508
201. The Secretary of State to the Chargé in Great Britain (Laughlin), September 18, 1916	519
202. The Secretary of State to the President, September 21, 1916 . .	519
203. The Secretary of State to the President, September 22, 1916 . .	520
204. The President to the Secretary of State, September 29, 1916 . .	525
205. The President to the Secretary of State, September 29, 1916 . .	526
206. The Secretary of State to the President, October 2, 1916 . . .	527
207. The President to the Secretary of State, October 6, 1916 . . .	528
208. The Secretary of State to the President, October 17, 1916 . . .	528
209. The Secretary of State to the Ambassador in Great Britain (Page), November 11, 1916	532
210. The Secretary of State to the President, November 14, 1916 . .	533
211. The Secretary of State to the Ambassador in Great Britain (Page), November 24, 1916	534
212. Press Statement by the Federal Reserve Board, November 28, 1916	535
213. The Secretary of State to the President, December 8, 1916 . . .	537
214. The President to the Secretary of State, December 27, 1916 . .	539
215. The Secretary of State to the Ambassador in Great Britain (Page), December 28, 1916	539

	Page
216. The Secretary of State to the President, January 12, 1917 . . .	540
217. The Secretary of State to the President, January 17, 1917 . . .	540
218. The Ambassador in Germany (Gerard) to the Secretary of State, January 21, 1917	541
219. Message of the President to the Senate, January 22, 1917 . . .	542
220. The President to the Secretary of State, January 24, 1917 . . .	548
221. The Ambassador in Great Britain (Page) to the Secretary of State, January 25, 1917	548
222. The President to the Secretary of State, January 31, 1917 . . .	549
223. The Secretary of State to the President, January 31, 1917 . . .	549
224. The German Ambassador (Bernstorff) to the Secretary of State, January 31, 1917	552
225. Memorandum by the Secretary of State, February 1, 1917 . .	557
226. The Secretary of State to the President, February 2, 1917 . .	558
227. Message of the President to Congress, February 3, 1917 . . .	559
228. Memorandum by the Secretary of State, February 6, 1917 . . .	562
229. The Secretary of State to the Swiss Minister (Ritter), February 12, 1917	563
230. The Secretary of State to the President, February 14, 1917 . .	563
231. The Secretary of State to the British Ambassador (Spring Rice), February 19, 1917	564
232. The Secretary of State to the President, February 21, 1917 . .	565
233. The Acting Secretary of State to Diplomatic Officers in All Coun- tries except Liberia and Morocco, February 26, 1917 . . .	568
234. The Ambassador in Great Britain (Page) to the Secretary of State, March 5, 1917	570
235. The Secretary of State to the President, March 6, 1917 . . .	571
236. Press Statement by the Federal Reserve Board, March 8, 1917 .	574
237. The Secretary of State to the President, March 8, 1917 . . .	575
238. The Secretary of the Navy (Daniels) to the President, March 9, 1917	577
239. The Secretary of State to the President, March 9, 1917 . . .	580
240. The Department of State to the Argentine Embassy, March 12, 1917	581
241. Regulations Governing the Conduct of American Merchant Vessels on Which Armed Guards Have Been Placed, March 13, 1917	582
242. The Secretary of State to the President, March 19, 1917 . . .	585
243. Message of the President to Congress, April 2, 1917	587
244. The Secretary of State to the Ambassador in Great Britain (Page), April 6, 1917	595
245. List of American Vessels Attacked or Sunk by Submarines, Mines, et cetera, and Number of Lives Lost, from the Beginning of the War to April 6, 1917	596
246. Joint Resolution Declaring the Existence of a State of War between the United States and Germany, April 6, 1917 . .	596
247. The Secretary of State to the President, April 19, 1917 . . .	597
248. The President to the Secretary of State, April 20, 1917 . . .	598
249. The Secretary of State to the Minister in Denmark (Egan), April 20, 1917	599
250. The Secretary of State to the Chargé in the Netherlands (Lang- horne), April 23, 1917	599

	Page
251. The Chargé in the Netherlands (Langhorne) to the Secretary of State, April 27, 1917	599
252. Memorandum by the Law Adviser for the Department of State (Woolsey), May 17, 1917	600
253. The Secretary of State to the Ambassador in Spain (Willard), May 22, 1917	606
254. Memorandum by the Law Adviser for the Department of State (Woolsey), May 25, 1917	607
255. Agreement between France, Great Britain, Italy, and the United States, Relating to Silks and Silk Goods, June 9, 1917	610
256. Extract from the Espionage Act of June 15, 1917	611
257. The Secretary of State to the Swiss Minister (Ritter), June 19, 1917	612
258. The Secretary of State to the Minister in Sweden (Morris), June 20, 1917	613
259. Executive Order Establishing an Exports Council, June 22, 1917	613
260. The Secretary of State to Diplomatic Officers in All Latin American Countries except Haiti, Santo Domingo, and Venezuela, June 27, 1917	614
261. Instructions for the Navy of the United States Governing Maritime Warfare, June 1917	615
262. Proclamation Restricting Exports, July 9, 1917	638
263. Statement by the President, July 9, 1917	640
264. The Acting Secretary of State to the Consul General at Rio de Janeiro (Gottschalk), July 17, 1917	640
265. The Exports Council to the Danish Legation, July 24, 1917	641
266. The Acting Secretary of State to the Ambassador in Great Britain (Page), July 31, 1917	644
267. The Secretary of State to the Ministers in Denmark, the Netherlands, Norway, and Sweden, August 8, 1917	645
268. Agreement between the Swiss Federal Government and France, Great Britain, Italy, and the United States Relating to Silks and Silk Goods, August 9, 1917	646
269. Executive Order Establishing an Exports Administrative Board and an Exports Council, August 21, 1917	647
270. Proclamation Further Restricting Exports, August 27, 1917	648
271. The Secretary of State to Diplomatic Officers in Certain Countries, August 27, 1917	651
272. Resolution of the Exports Administrative Board, August 30, 1917	652
273. Instructions of the Exports Administrative Board, August 31, 1917	652
274. Proclamation Restricting Exports of Coin, Bullion, and Currency, September 7, 1917	653
275. Public Statement by the Exports Administrative Board, September 13, 1917	655
276. Public Statement by the Exports Administrative Board, September 29, 1917	655
277. The Acting Secretary of State to the Ambassador in Great Britain (Page), September 29, 1917	656
278. Public Statement by the Exports Administrative Board, October 5, 1917	656

	Page
279. Extract from the Trading with the Enemy Act of October 6, 1917	657
280. The Secretary of State to the Ambassador in Great Britain (Page), October 6, 1917	660
281. Authorization of the Exports Administrative Board, October 9, 1917	662
282. Executive Order Vesting Power and Authority in Designated Officers and Making Rules and Regulations under the Trading with the Enemy Act and Title VII of the Espionage Act, October 12, 1917	662
283. The Secretary of State to the Minister in the Netherlands (Garrett), October 17, 1917	670
284. The Secretary of State to the Ambassador in Great Britain (Page), October 17, 1917	672
285. The Secretary of State to the Secretary of the Navy (Daniels), November 10, 1917	673
286. The Secretary of State to the Ambassador in Great Britain (Page), November 15, 1917	674
287. The President to the Special Representative (House), November 19, 1917	675
288. The Secretary of State to the Ambassador in Great Britain (Page), November 20, 1917	675
289. The Secretary of State to the Chargé in Cuba (Scholle), November 20, 1917	675
290. The Secretary of State to the Ambassador in France (Sharp), November 22, 1917	676
291. The Secretary of State to the Minister in Norway (Schmedeman), November 24, 1917	677
292. Proclamation Further Restricting Exports, November 28, 1917	677
293. Proclamation Prohibiting Certain Imports except under License, November 28, 1917	679
294. Public Statement by the War Trade Board, in Connection with the President's Proclamation Prohibiting Certain Imports Except under License, December 1, 1917.	681
295. The Secretary of State to the Ambassador in Spain (Willard), December 1, 1917	682
296. Memorandum between the War Trade Board of the United States and the Swiss Government in Regard to Exports from the United States to Switzerland, December 5, 1917	683
297. The Secretary of State to the Ambassador in Great Britain (Page), December 5, 1917	694
298. The Secretary of State to Diplomatic Officers in Latin American Countries, December 5, 1917	694
299. The Secretary of State to Diplomatic Officers in Latin American Countries, December 13, 1917	695
300. The Secretary of State to the Ambassador in Great Britain (Page), December 13, 1917	695
301. The Acting Chairman of the War Trade Board (Munson) to the Danish Minister (Brun), December 14, 1917.	696
302. Report of the Representative of the Navy Department at the Inter-Allied Conference (Benson), December 14, 1917.	697
303. Protocol Added to the Agreement of June 9, 1917, Relating to Silks and Silk Goods, December 17, 1917	699

	Page
304. The Secretary of State to the Ambassador in France (Sharp), December 21, 1917.	701
305. The Secretary of State to the Ambassador in Spain (Willard), January 2, 1918	702
306. The Secretary of State to the Salvadoran Minister (Zaldivar), January 7, 1918	704
307. Message of the President to Congress, January 8, 1918	704
308. The Secretary of State to the Ambassador in Spain (Willard), January 8, 1918	706
309. The Secretary of State to the Ambassador in Great Britain (Page), January 10, 1918	707
310. The Shipping Board Representative on the War Trade Board (Munson) to the Counselor for the Department of State (Polk), January 16, 1918	709
311. The Secretary of the Navy (Daniels) to the Secretary of State, January 16, 1918.	710
312. The Acting Secretary of State to Consular Officers in Latin American Countries, January 18, 1918	711
313. The Acting Secretary of State to the Ambassador in Great Britain (Page), January 19, 1918.	712
314. The Acting Secretary of State to the Consul at Barcelona (Hurst), January 19, 1918.	717
315. General Rules Number 1, Governing Granting Licenses for Bunker Fuel, Port, Sea, and Ship's Stores and Supplies, Issued by the War Trade Board, January 19, 1918. . . .	718
316. The Acting Secretary of State to the Ambassador in Great Britain (Page), January 23, 1918.	721
317. The Netherland Minister (Van Rappard) to the Counselor for the Department of State (Polk), January 25, 1918	721
318. The Ambassador in Great Britain (Page) to the Secretary of State, January 29, 1918.	722
319. The Secretary of State to the Ambassador in Great Britain (Page), January 30, 1918	725
320. The Secretary of State to Diplomatic and Consular Officers, January 30, 1918.	725
321. The Secretary of State to the Ambassador in Spain (Willard), February 2, 1918.	726
322. The Secretary of State to the Ambassador in Great Britain (Page), February 13, 1918.	727
323. The Secretary of State to the Ambassador in Great Britain (Page), February 14, 1918.	727
324. Proclamation Regarding Exports in Time of War, February 14, 1918	728
325. Proclamation Regarding Imports in Time of War, February 14, 1918	730
326. Statement by the War Trade Board, February 15, 1918	732
327. The Secretary of State to the Ambassador in Great Britain (Page), February 18, 1918.	733
328. The Director of the Bureau of War Trade Intelligence of the War Trade Board (Fuller) to Major Grimpel of the French High Commission, February 19, 1918	735
329. War Trade Board Announcement Regarding Exports to Holland and Sweden, February 20, 1918	737

	Page
330. The Secretary of State to the War Trade Board, February 25, 1918	739
331. The Secretary of State to the Minister in Cuba (Gonzales), March 1, 1918.	740
332. The Secretary of State to the Chargé in Denmark (Grant-Smith), March 1, 1918	740
333. The Acting Secretary of State to the Ambassador in Great Britain (Page), March 6, 1918.	741
334. The Ambassador in Spain (Willard) to the Spanish Minister of State (Alhucemas), March 7, 1918.	741
335. The Acting Secretary of State to the Minister in Cuba (Gonzales), March 13, 1918	745
336. The Ambassador in Great Britain (Page) to the Secretary of State, March 20, 1918.	745
337. Proclamation Regarding the Possession and Utilization of Vessels of the Netherlands, March 20, 1918	746
338. Public Statement by the President Regarding the Taking Over of Netherland Ships by the United States, March 21, 1918	747
339. Public Statement by the War Trade Board, March 23, 1918	750
340. The Secretary of State to the Ambassador in Great Britain (Page), March 26, 1918.	751
341. The Secretary of State to Diplomatic and Consular Officers, March 29, 1918	752
342. The Secretary of State to the Consul at Barcelona (Hurst), March 30, 1918	752
343. The Ambassador in Great Britain (Page) to the Secretary of State, April 2, 1918.	753
344. The Secretary of State to the War Trade Board Representative in Cuba (Morgan), April 4, 1918.	754
345. The Secretary of State to the Ambassador in Great Britain (Page), April 8, 1918	755
346. The Acting Secretary of State to the Swiss Minister (Sulzer), April 26, 1918	756
347. The Secretary of State to the Ambassador in Great Britain (Page), April 26, 1918.	757
348. The Consul General at London (Skinner) to the Secretary of State, undated, received April 29, 1918	758
349. Memorandum of Agreement between the War Trade Board of the United States and the Norwegian Government, Relating to Exports from the United States to Norway, April 30, 1918	758
350. The Secretary of State to the Ambassador in Great Britain (Page), May 3, 1918	772
351. The Acting Secretary of State to the Minister in Switzerland (Stovall), May 3, 1918	772
352. Public Statement by the War Trade Board, May 4, 1918	773
353. The Secretary of State to the Ambassador in Great Britain (Page), May 10, 1918	774
354. The Chargé in Great Britain (Laughlin) to the Secretary of State, May 22, 1918	775
355. The Secretary of State to the Chargé in Great Britain (Laughlin), May 27, 1918	777

	Page
356. The Acting Secretary of State to the Secretary of the Navy (Daniels), June 4, 1918	777
357. The Secretary of the Navy (Daniels) to the Secretary of State, June 18, 1918	779
358. The Secretary of State to the Chargé in Great Britain (Laughlin), June 19, 1918	780
359. The Secretary of State to the Minister in Cuba (Gonzales), June 22, 1918	781
360. The Secretary of State to the Swedish Minister (Ekengren), June 26, 1918	781
361. The Secretary of State to the Minister in Sweden (Morris), June 26, 1918	783
362. Executive Order Allotting \$6,000,000 for the Purchase of Swedish Iron Ore, June 29, 1918	784
363. The Secretary of State to the Ambassador in Spain (Willard), July 2, 1918	785
364. The Secretary of State to the War Trade Board Representative in Cuba (Morgan), July 2, 1918	785
365. The Secretary of State to the Ambassador in Great Britain (Page), July 2, 1918	786
366. The Secretary of State to the Ambassador in France (Sharp), July 3, 1918	786
367. The Secretary of the Navy (Daniels) to the Secretary of State, July 5, 1918	787
368. The Secretary of State to the Minister in Cuba (Gonzales), July 5, 1918	788
369. The Acting Secretary of State to the British Ambassador on Special Mission (Reading), July 10, 1918	789
370. The Secretary of State to the Ambassador in Great Britain (Page), July 12, 1918	789
371. The Acting Secretary of State to the British Ambassador on Special Mission (Reading), July 18, 1918	790
372. The Acting Secretary of State to the Ambassador in Great Britain (Page), July 23, 1918	791
373. The Acting Secretary of State to the Ambassador in Great Britain (Page), July 25, 1918	792
374. The Acting Secretary of State to the Ambassador in France (Sharp), August 1, 1918	794
375. The Acting Secretary of State to the Ambassador in Great Britain (Page), August 5, 1918	794
376. The Minister in Switzerland (Stovall) to the Secretary of State, August 8, 1918	795
377. The Secretary of State to the Ambassador in Great Britain (Page), August 13, 1918	796
378. The Secretary of State to the Ambassador in Great Britain (Page), August 21, 1918	798
379. The Secretary of State to the War Trade Board Representative in Cuba (Morgan), August 21, 1918	799
380. The Secretary of State to the Ambassador in Great Britain (Page), August 24, 1918	800
381. The Secretary of State to the Minister in the Netherlands (Garrett), August 27, 1918	800

	Page
382. The Secretary of State to the Chargé in Norway (Schoenfeld), August 27, 1918	803
383. The Secretary of State to Diplomatic and Consular Officers in Latin American Countries, August 30, 1918	805
384. The Secretary of State to Diplomatic and Consular Officers in Latin American Countries, August 30, 1918	809
385. The Secretary of State to the Ambassador in Great Britain (Page), August 31, 1918	814
386. The Secretary of State to Diplomatic Officers in Latin American Countries, September 3, 1918	814
387. The Secretary of State to the Ambassador in France (Sharp), September 4, 1918	815
388. The Secretary of State to the Ambassador in Great Britain (Page), September 4, 1918	817
389. The Secretary of State to the Ambassador in Great Britain (Page), September 5, 1918	817
390. The Secretary of State to the Chargé in the Netherlands (Kirk), September 13, 1918	818
391. The Ambassador in Great Britain (Page) to the Secretary of State, September 16, 1918	819
392. Agreement between the War Trade Board of the United States and the Merchants' Guild of Copenhagen and the Danish Chamber of Commerce, September 18, 1918	820
393. Agreement between the War Trade Board of the United States and the Danish Special Shipping Committee, September 18, 1918	829
394. The Chairman of the War Trade Board (McCormick) to the Danish Minister (Brun), September 18, 1918	832
395. The War Trade Board Representative in Cuba (Morgan) to the Secretary of State, September 18, 1918	841
396. The Secretary of State to the Chargé in the Netherlands (Kirk), September 20, 1918	841
397. The Secretary of State to the Ambassador in Great Britain (Page), September 27, 1918	844
398. The Secretary of State to the Ambassador in Great Britain (Page), September 28, 1918	845
399. The Secretary of State to the British Chargé (Barclay), September 30, 1918	846
400. The Secretary of State to the Ambassador in Great Britain (Page), October 1, 1918	847
401. The Secretary of State to the Chargé in the Netherlands (Bliss), October 1, 1918	848
402. The Consul at Curaçao (Messersmith) to the Secretary of State, October 8, 1918	849
403. The Chairman of the War Trade Board (McCormick) to the Third Secretary of the British Embassy (Hudson), October 11, 1918	849
404. The Acting Secretary of State to the Chargé in Great Britain (Laughlin), October 11, 1918	850
405. The Acting Secretary of State to the Ambassador in France (Sharp), October 11, 1918	851
406. The Chargé in Great Britain (Laughlin) to the Secretary of State, October 16, 1918	851

	Page
407. The Secretary of State to the Ambassador in Spain (Willard), October 17, 1918	854
408. The Secretary of State to the Chargé in Great Britain (Laughlin), October 22, 1918	854
409. The Secretary of State to the Ambassador in France (Sharp), October 22, 1918	855
410. The Special Representative (House) to the Secretary of State, October 29, 1918	856
411. The President to the Special Representative (House), October 30, 1918	857
412. The Special Representative (House) to the Secretary of State, October 30, 1918	857
413. The President to the Special Representative (House), October 30, 1918	859
414. The Special Representative (House) to the Secretary of State, October 30, 1918	859
415. The President to the Special Representative (House), October 31, 1918	861
416. The Secretary of State to the Chargé in Great Britain (Laughlin), October 31, 1918	862
417. The Special Representative (House) to the Secretary of State, November 3, 1918	863
418. The Special Representative (House) to the Secretary of State, November 4, 1918	865
419. The Secretary of State to the Swiss Minister (Sulzer), November 5, 1918	867
420. The Secretary of State to the Ambassador in Spain (Willard), November 5, 1918	868
421. The Solicitor for the Department of State (Woolsey) to the Counselor for the Department of State (Polk), November 11, 1918	869
422. The Secretary of State to the Minister in Switzerland (Stovall), November 11, 1918	870
423. The Secretary of State to the Chargé in Great Britain (Laughlin), November 12, 1918	870
424. The Secretary of State to the Chargé in Great Britain (Laughlin), November 15, 1918	872
425. Agreement between the Netherland Government and the "Associated Governments", November 25, 1918	873
426. Executive Order Amending the Executive Order of June 29, 1918, Allotting \$6,000,000 for the Purchase of Swedish Iron Ore, November 27, 1918	882
427. The Secretary of State to the Chargé in Great Britain (Laughlin), November 29, 1918	883
428. The Consul General at London (Skinner) to the Secretary of State, December 14, 1918	883
429. Joint Agreement between the Governments of Great Britain, France, and Italy and the Netherlands Oversea Trust, December 17, 1918	884
430. The Secretary of the Navy (Daniels) to the Secretary of State, January 6, 1919	892
431. The Secretary of the Navy (Daniels) to the Secretary of State, February 20, 1919	894

NEUTRALITY

CHAPTER I

THE DECLARATION OF LONDON IN 1914

AMERICAN SUGGESTION THAT THE DECLARATION BE ADOPTED

When war began in Europe in 1914 the declaration concerning the laws of naval warfare, signed at London February 26, 1909,¹ had not been ratified by any of the signatory states. The United States believed that acceptance of the Declaration of London by the belligerent powers would prevent "grave misunderstandings" which might arise in their relations with neutral states, and inquired on August 6, 1914, whether the principal belligerents would agree that the declaration should be applicable during the conflict.²

Germany and Austria-Hungary replied that they would observe the Declaration of London upon condition of a like observance by their adversaries. Great Britain adopted it with certain modifications and additions which were set forth in an order in council of August 20,³ and France and Russia adhered to the British position.

Acting Secretary of State Lansing explained to Ambassador Page in Great Britain, in an instruction of September 26, that the United States had inquired with regard to the adoption of the entire declaration by all of the great belligerent powers.⁴ Great Britain's adoption of it with modifications regardless of the attitude of British adversaries, he did not consider an acceptance of the American proposition.

The Acting Secretary mentioned that in suggesting general acceptance of the entire declaration, the United States followed article 65, which stipulated that its provisions must be treated as a whole and could not be separated. Although the declaration was introduced by a statement that the rules contained in it corresponded in substance with generally recognized principles of international law, he believed that an agreement on many articles had been reached through reciprocal concessions. The United States, by accepting the declaration at the conference in London, "was compelled to abandon certain rules of conduct which it had theretofore always maintained."

¹ Document 1.

² Document 4.

³ Document 11.

⁴ Document 13.

BRITISH ORDER IN COUNCIL, AUGUST 20, 1914

In this instruction of September 26, Acting Secretary Lansing discussed the British modifications of the Declaration of London, which were contained in the order in council of August 20. He stated that serious misunderstandings might result from the uncertainty in meaning of the 3d article. This article provided that the destination of conditional contraband for the use of the armed forces or of a government department of an enemy state might be inferred from "any sufficient evidence", and should be presumed if goods were consigned "to or for an agent of the enemy state or to or for a merchant or other person under the control of the authorities of the enemy state."

Article 5 of the order in council provided that conditional contraband, if destined for the use of the armed forces or of a government department of an enemy state, was "liable to capture to whatever port the vessel is bound and at whatever port the cargo is to be discharged." The Acting Secretary stated that this was a reversion to the doctrine of continuous voyage in relation to conditional contraband, a doctrine which had been abandoned by the London conference. Destination to enemy territory, he held, could not properly be considered sufficient ground for seizing foodstuffs or other conditional contraband, unless they were destined for the use of the armed forces or of a government department of an enemy state.

Acting Secretary Lansing held that to concede the existence of the right asserted by these two articles would be to make neutral trade between neutral ports dependent upon the pleasure of belligerents, and give belligerents the advantages of an established blockade without the necessity of maintaining it with an adequate naval force. This asserted right suggested to him the so-called paper blockades which were repudiated by the Declaration of Paris.

The Acting Secretary next considered article 6 of the order in council, which provided that the general report of the drafting committee on the Declaration of London should be considered by prize courts "as an authoritative statement of the meaning and intention of the said declaration and such courts shall construe and interpret the provisions of the said declaration by the light of the commentary given therein." He stated that the Senate of the United States in giving its consent⁵ to the ratification of the declaration did not include the report of the drafting committee. Furthermore, it was "contrary to the long-established practice of the system of jurisprudence of this country to make any commentary upon the law binding upon the courts of justice." The United States could

⁵ Apr. 24, 1912.

not agree, therefore, to make the views of a committee of the conference an integral part of the Declaration of London.

Although the Acting Secretary did not discuss other provisions of the order in council, he stated that the acquiescence of the Government of the United States in the British position on the declaration might tend to create for the United States neutral duties or incapacities which might be considered unfriendly by the adversaries of Great Britain. He declared that the United States "would be unable to accept the declaration as thus modified." Therefore, the Government reserved all its rights under international law with regard to any losses or damages which might occur from British captures or condemnations made under the provisions of the Declaration of London as modified by the order in council of August 20.

In presenting the foregoing views to the British Government, Ambassador Page was to state that the United States was greatly concerned that Great Britain should advance doctrines and advocate practices which in the past had aroused bitter feeling among the American people. He was to express the fear that the British action would "awaken memories of controversies, which it is the earnest desire of the United States to forget or to pass over in silence."

On September 28, two days after this instruction was mailed, Ambassador Page was directed by cable⁶ to tell the British Secretary for Foreign Affairs that the United States was greatly disturbed by Great Britain's intention to change the provisions of the Declaration of London by the order in council of August 20. The Ambassador was to tell him also that there was "grave concern" over all of the proposed changes, especially those in articles 3 and 5. Furthermore, he was to say that President Wilson desired to avoid a formal protest and hoped the British Government would be willing to modify these features of the order in council. Finally, the President desired that the Secretary for Foreign Affairs should realize that the terms of the Declaration of London represented the limit to which the Government of the United States could go "with the approbation and support of its people."

During the evening of September 28, Acting Secretary Lansing discussed the order in council of August 20 with the British Ambassador.⁷ The Ambassador agreed that the order in council practically made foodstuffs absolute contraband. He explained that it had been issued because in the first days of the war food supplies for the German army in Belgium had been introduced through Rotterdam. The Acting Secretary said it seemed unfortunate that some

⁶ Document 14.

⁷ Document 15.

other means could not have been found to accomplish the desired purpose, "either by getting the Netherlands to place an embargo on foodstuffs and other conditional contraband or by agreeing not to reexport such articles."

The Ambassador mentioned that now the chief anxiety of the British Government was in regard to shipments of petroleum, copper, and iron. He suggested that the difficulty created by the order in council might be removed by rescinding it and adding to the list of absolute contraband petroleum products, copper, barbed wire and other articles then used almost exclusively for war purposes. The Acting Secretary agreed that this suggestion seemed worthy of consideration as a means of doing away with the order in council.

Ambassador Page reported on September 29 that the Secretary for Foreign Affairs had proposed a discussion of the British modifications to the Declaration of London.⁸ Two days later Page was directed by cable that he should not present the instruction of September 26 to the British Government, but should use it for his own information in informal discussions.⁹ That instruction, he was informed, defined the position of the United States in regard to acceptance of the Declaration of London and stated the Government's objections to the British order in council. Furthermore, it outlined the reasons for the refusal of the United States to agree to any material modifications of the declaration. An important one of these reasons was "the view which the German and Austrian Governments would undoubtedly hold of an acceptance of modifications of the declaration which would be of special advantage to their enemies."

On October 2, the Acting Secretary of State offered the British Ambassador in an "entirely unofficial and personal way", some suggestions regarding the Declaration of London.¹⁰ He stated that under articles 23 and 25 of the declaration a belligerent would have the right to add to the lists of absolute and conditional contraband given in articles 22 and 24. Although in the case of absolute contraband the added articles must be those "exclusively used for war", he believed that "exclusively" could not be interpreted literally. A literal interpretation would exclude dynamite sticks used in mining, an exclusion which he thought was not intended. In interpreting "exclusively used for war", he felt that there must be taken into consideration the methods of warfare, the presumed destination of the articles, and the situation existing at the time the articles were added to the absolute contraband list. If this view was correct, then article 1 of the order in council of August 20, which

⁸ Footnote 21, p. 206.

⁹ Document 16.

¹⁰ Document 17.

substituted new lists of absolute and conditional contraband for those contained in the Declaration of London, was not a modification of the declaration but "merely an act performed under its provisions."

The Acting Secretary asked whether the powers conferred upon belligerents by articles 23 and 25 of the declaration were not sufficient to protect British interests. He thought the main object of the British Government was to apply the doctrine of continuous voyage to certain articles listed as conditional contraband, but which they considered munitions. Since these articles could be treated upon notice as absolute contraband, he did not see the necessity for modifying the declaration.

On October 4, Ambassador Page in Great Britain was informed of these suggestions made by the Acting Secretary to the British Ambassador.¹¹ Page was also informed that the United States would view with "eminent satisfaction" British acceptance of the Declaration of London without change. After unconditional acceptance, modifications of lists of contraband could be made under articles 23 and 25, but as to the propriety of these additions the United States reserved opinion until notified of them.

PROPOSED BRITISH ORDER IN COUNCIL

The British Secretary for Foreign Affairs handed Ambassador Page, on October 9, a proposed order in council which was to replace the one of August 20, and which was not to be issued until discussed with the Government of the United States. On October 16, the Acting Secretary of State cabled the Ambassador five objections to the proposed order in council:¹²

1. It did not accept the Declaration of London without change; the modified acceptance would not be satisfactory to other belligerents.

2. It left unrepealed the "especially objectionable" articles 3 and 5 of the order in council of August 20.

3. It added to the lists of contraband already issued by the British Government. As these additions could have been made under articles 23 and 25 of the Declaration of London if it had been adopted without change, it was needless to modify the declaration.

4. It provided that a vessel bound for a neutral port should be liable to capture on the ground that its cargo was conditional contraband, if "no consignee in that country of the goods alleged to be conditional contraband is disclosed in the ship's papers." The Acting Secretary stated that this provision appeared to go even further than article 5 of the order in council of August 20 in applying to conditional contraband the doctrine of continuous voyage.

¹¹ Document 19.

¹² Document 23.

5. It stipulated that when one of the British Principal Secretaries of State was convinced that an enemy was obtaining supplies or munitions for its armed forces from or through a neutral country, he might, by notification in the *London Gazette*, direct that a vessel which was carrying conditional contraband to a port in that country should not be immune from capture. The Acting Secretary stated that this provision imposed upon neutral commerce a restriction which appeared to be without precedent. Articles listed as conditional contraband, shipped in a neutral vessel to a consignee in a neutral country, would make the vessel and cargo liable to seizure if the British Government were convinced that supplies or munitions were entering enemy territory from the neutral country. Furthermore, a belligerent would gain all rights over neutral commerce with enemy territory without declaring war against the neutral country which was claimed to be a base of supply for the military forces of an enemy. Finally, the Acting Secretary considered it "inconsistent to declare a nation to be neutral and treat it as an enemy."

On this same date, October 16, Acting Secretary Lansing cabled Ambassador Page that the United States wished to obtain from the British Government the issuance of an order in council adopting the Declaration of London without amendment; that the United States also wished to obtain from France and Russia like decrees.¹³ Such an adoption by the Allied Governments, he stated, would put in force the acceptance by Germany and Austria of the declaration. He believed that this could not be accomplished if the declaration were changed in any way, as Germany and Austria would not consent to a change.

The Acting Secretary stated that he did not feel warranted in offering any suggestion to the British Government as to a course which would meet the wishes of the United States and at the same time accomplish the ends sought by Great Britain. However, the Ambassador might in the strictest confidence "intimate" the following plan, personally and without engaging his Government's responsibility:

1. The British Government would issue an order in council accepting the Declaration of London without change or addition and repealing all previous conflicting orders in council.

2. This order in council would be followed by a proclamation adding articles to the lists of absolute and conditional contraband under authority conferred by articles 23 and 25 of the declaration.

3. The proclamation would be followed by another order in council which would provide that when one of the British Principal Secretaries of State was convinced that a port or the territory of a neutral country was being used as a base for the transit of supplies for an enemy government, "a proclamation shall issue declaring that such port or territory has acquired enemy character in so far as trade in contraband is concerned and that vessels trading there-

¹³ Document 22.

with shall be thereafter subject to the rules of the declaration governing trade to enemy's territory." The Acting Secretary observed that this order in council would be based on a new principle. The "excuse" would be that, as the Declaration of London failed to provide for such an exceptional condition as existed, a belligerent had "a right to give a reasonable interpretation to the rules of the declaration so that they will not leave him helpless to prevent an enemy from obtaining supplies for his military forces."

President Wilson cabled Ambassador Page on this same date, pointing out that the above-mentioned cable indicated how completely all the British Government sought could be accomplished without friction with the United States.¹⁴ He also referred to the Ambassador's statement of the previous day that he considered academic the position of the United States in the controversy with Great Britain.¹⁵ The President asked him not to regard the American position as "merely academic", and urged him to use his utmost efforts to effect an understanding which would "put the whole case in an unimpeachable form".

WITHDRAWAL OF AMERICAN SUGGESTION

Ambassador Page presented to the British Government the plan contained in the Acting Secretary's telegram of October 16, and soon reported that the British Government would "not accept Declaration of London without amendment."¹⁶

The Ambassador was instructed on October 22 that, as the British Government could not accept the entire Declaration of London, the United States felt obliged to withdraw the suggestion that the declaration be adopted as a temporary code of naval warfare.¹⁷ Therefore, the Government would insist that American rights and duties during the war should be defined by existing rules of international law and treaties of the United States, irrespective of the provisions of the declaration. Furthermore, the United States reserved the right to enter a protest or demand whenever those rights and duties were violated "or their free exercise interfered with."

¹⁴ Document 24.

¹⁵ Document 21.

¹⁶ Document 25.

¹⁷ Document 26.

CHAPTER II

TRADE RESTRICTIONS OF THE ALLIES

BRITISH ORDER IN COUNCIL, OCTOBER 29, 1914

The British order in council of August 20, 1914, was replaced on October 29 by a new order in council which provided that during the war the Declaration of London should be adopted by the British Government, "subject to the exclusion of the lists of contraband and non-contraband, and to the modifications hereinafter set out."¹ The principal modifications were:

1. The destination of conditional contraband for the use of the armed forces or of a government department of an enemy state should be presumed if the goods were consigned to or for an agent of an enemy state.

2. Conditional contraband should be liable to capture on board a vessel bound for a neutral port (a) if the goods were consigned "to order", (b) if the ship's papers did not show the consignee of the goods, or (c) if the papers showed a consignee in enemy territory. It should "lie upon the owners of the goods to prove that their destination was innocent."

3. When one of the British Principal Secretaries of State was convinced that an enemy was obtaining supplies for its armed forces from or through a neutral country, he might, by notification in the *London Gazette*, direct that a vessel which was carrying conditional contraband to a port in that country should not be immune from capture.

DETENTION OF AMERICAN SHIPS AND CARGOES, 1914

Although the United States did not enter a general protest against the British order in council of October 29, several statements were made during the last months of 1914 in regard to trade interference resulting from this and other British measures. Most of the statements related to the seizure and detention for various reasons of American vessels and cargoes destined to neutral European ports.

Acting Secretary of State Lansing cabled Ambassador Page, on October 31, that the commerce of the United States had "already

¹ Document 32.

suffered serious injury as a result of the detention and seizure by British authorities of American vessels and cargoes in cases where investigation has failed to show attempts to carry on illegal trade.”² The Acting Secretary did not question the belligerent right of visit and search to determine whether a neutral merchant vessel was carrying contraband of war or performing unneutral services. However, if the search disclosed no offense, the vessel should be promptly released.

One week later the Acting Secretary stated in a note to the British Ambassador at Washington that a belligerent in exercising the right of visit and search should make the search on the high seas at the time of the visit.³ Furthermore, the conclusion of the search should rest upon evidence found on the vessel under investigation, not upon circumstances ascertained from outside sources. If a belligerent should take vessels into custody and send them into port without *prima facie* evidence to impress the cargo with the character of absolute or conditional contraband, he believed there would be a basis for a legal claim for damages against the belligerent. He considered contrary to international law the interruption of voyages in this manner, and reserved the right to hold the British Government “responsible in damages.”

Secretary of State Bryan expressed views on this subject in a cable of November 10 to Ambassador Page.⁴ The Secretary considered unjustifiable the detention of vessels until the destination of cargoes had been ascertained from sources outside of the ship’s papers. Furthermore, he held that it was contrary to international law for a belligerent to detain a cargo of conditional contraband on the ground that it was consigned to order of the shipper. If conditional contraband was subject to detention and prize proceedings when so consigned, he believed there would be no distinction between conditional and absolute contraband.

On December 3, Secretary Bryan cabled Ambassador Page that the course of Great Britain in taking neutral vessels into British ports and detaining them for examination, including the unloading of cargoes in search of evidence of their contraband character, constituted “wrongful and unjustifiable detention.”⁵ Shipments to neutral countries could not “rightfully” be seized as contraband in the absence of facts indicating that they were actually destined for belligerents. Furthermore, he denied the legality of British action in seizing American shipments on neutral vessels to neutral

² Document 30.

³ Document 33.

⁴ Document 35.

⁵ Document 36.

countries on the ground that the shipments were consigned to order of shippers.

The most complete American statement of 1914 in regard to the frequent seizures and detentions of American cargoes destined to neutral European ports, was made by Secretary Bryan on December 26.⁶ In a cable to Ambassador Page he stated that although nearly five months had passed since the war began, the British Government "have not materially changed their policy and do not treat less rigorously ships and cargoes passing between neutral ports in the peaceful pursuit of lawful commerce".

Secretary Bryan held that commerce between neutral countries should not be interfered with by belligerents unless the interference was "manifestly an imperative necessity to protect their national safety", and then only to the extent that it was a necessity. He believed that British policy toward neutral ships and cargoes exceeded manifest necessity and constituted restrictions upon the rights of American citizens which were "not justified by the rules of international law or required under the principle of self-preservation".

The Secretary stated that he did not intend to discuss the propriety of including certain articles in the lists of absolute and conditional contraband. The inclusion of some of these seemed to him open to objection, but the chief ground of complaint was the treatment of cargoes of both classes of articles when bound to neutral ports. Contraband articles shipped from the United States and consigned to neutral countries had been unjustly detained on the ground that the countries to which they were destined had not prohibited the exportation of such articles. In the case of conditional contraband, a number of American cargoes which had been seized consisted of foodstuffs destined for neutral territory. The Secretary believed that British authorities had made these seizures and detentions without possessing facts which warranted a reasonable belief that the shipments had in reality a belligerent destination. He held that mere suspicion was not evidence and that doubts should be resolved in favor of neutral commerce.

The presumption of enemy destination for a consignment "to order" of articles listed as conditional contraband and shipped to a neutral port, appeared to Secretary Bryan directly contrary to the following doctrine previously held by Great Britain: "Foodstuffs, though having a hostile destination, can be considered as contraband of war only if they are for the enemy forces; it is not sufficient that they are capable of being so used, it must be shown that this was in fact their destination at the time of their seizure." He expressed

⁶ Document 40.

accord with this statement on conditional contraband, and held that American shippers were entitled to rely upon "this historic doctrine, consistently maintained by Great Britain when a belligerent as well as a neutral."

The Secretary admitted the right of a belligerent on the high seas to visit and search American vessels or other neutral vessels carrying American goods, and the right to detain them when there was sufficient evidence to justify a belief that contraband articles were in their cargoes. But the United States could not "without protest" permit American ships or American cargoes to be taken into British ports and "there detained for the purpose of searching generally for evidence of contraband, or upon presumptions created by special municipal enactments which are clearly at variance with international law and practice."

The British Government soon made a preliminary reply to the American note of December 26, expressing their agreement with the principles of international law as set forth in the note and expressing their desire to restrict action "solely to interference with contraband destined for the enemy." In acknowledging on January 12 the receipt of the British reply, Secretary Bryan expressed satisfaction that the two Governments agreed in principle.⁷

A few days later, President Wilson informed Ambassador Page in Great Britain that the American Government could not prevent the increasing criticism of British acts which seemed unnecessarily severe for the enforcement of belligerent rights.⁸ The President believed it should be possible for two governments "so genuinely friendly and so nearly of one mind with regard to the principles involved", to agree upon methods "by which good faith and entire compliance with the proper restrictions of a time of war and of national defense" could be determined with the smallest possible number of seizures and trials in prize courts. Finally, he suggested the feasibility of agreeing upon such methods; the British Government could "thus be assured of compliance with all its just regulations and of freedom from even the risk of friction and hostile sentiment as between the two nations".

In a letter of January 20, 1915, to Chairman Stone of the Senate Committee on Foreign Relations, Secretary Bryan mentioned that representations had been made to Great Britain in regard to the seizure and detention of American ships and cargoes destined to neutral ports, on the ground that this action was contrary to existing rules of international law.⁹ However, he stated, American courts had asserted and extended the rule of continuous voyage. They had

⁷ Document 43.

⁸ Document 46.

⁹ Document 44.

"exercised the right to determine from the circumstances whether the ostensible was the real destination". Furthermore, they had held that the shipment "to order" of contraband articles to a neutral port from which cargoes had been transshipped to the enemy, was corroborative evidence that the cargo was really destined to the enemy.

Thus, the Secretary stated, some of the doctrines which appeared "to bear harshly upon neutrals" were "analogous to or outgrowths from policies adopted by the United States when it was a belligerent." The United States could not consistently protest, therefore, against the application of rules it had followed in the past, unless they were not applied as previously.

WORKING ARRANGEMENT WITH GREAT BRITAIN

On December 6, 1914, Ambassador Page had cabled the Secretary of State a proposed "working arrangement" which had been prepared after discussions at the British Foreign Office.¹⁰ The purpose of the proposal was to remove trade and shipping difficulties existing between the United States and Great Britain.

According to this arrangement, the United States would (1) take steps to insure the correctness of manifests of outgoing cargoes; (2) rescind an order which prohibited the publication of manifests of cargoes until thirty days after the vessels carrying the cargoes had cleared from a port of the United States; and (3) decline to support claims of exporters who consigned shipments "to order". In return the British Government would gladly negotiate for the grant of permits for the "exportation from Great Britain and its colonies to the United States of rubber, hides, jute, plumbago, manganese, ferromanganese, chrome, tungsten ore, and other ingredients of steel", on receiving assurances against the exportation of these articles and against the exportation of products derived from some of them to destinations objectionable to the British Government.

The working arrangement went into effect early in 1915. On January 5, exporters in the United States were reminded of the importance of having foreign shipping manifests complete and accurate in order to avoid delay incident to search while in transit.¹¹ In furtherance of the Government's policy to make "every practicable effort to secure the uninterrupted flow of American commerce", the Treasury Department would furnish an officer to supervise the loading of cargo and to certify to the completeness and accuracy of the manifest. Six weeks later, the Government rescinded the order

¹⁰ Document 37.

¹¹ Document 42.

prohibiting for thirty days the publication of manifests. Agreements regarding British embargoed articles were made by the British Government with American manufacturers.

AMERICAN PROPOSAL OF FEBRUARY 20, 1915

Late in 1914 the Department of State replied to an inquiry of the German Embassy as to whether the United States was willing to prevent Great Britain from seizing shipments of "relative contraband", especially foodstuffs, from the United States to Germany. The Department stated that there was a clear right for citizens or subjects of a neutral country to trade with those of belligerent countries in noncontraband goods, and to trade in goods which were relative contraband, except goods "bound or destined for belligerent governments or as supplies for their armed forces."¹² The Embassy was assured that the United States proposed to extend assistance to its citizens whose goods might be seized or detained by a belligerent in violation of international law, and that this policy would be pursued with strict impartiality toward all belligerents.

On February 3, 1915, the Secretary of State informed the Secretary of the Treasury that although neutrals had the right to ship to Germany foodstuffs and other conditional contraband not destined or intended for ultimate delivery to a department of the Government or its armed forces, a reported German decree appeared to establish governmental control of the food supply.¹³ He stated that in view of this decree, the British Government had declared that they must regard shipments of foodstuffs to Germany as destined for the German Government.

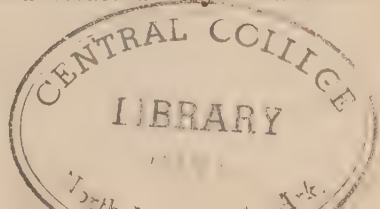
The Department of State received formal assurances from the German Government on February 8 that foodstuffs imported into Germany directly or indirectly from the United States, would not be used by the German armed forces or by Government authorities. Furthermore, the German Government expressed its willingness to have food from the United States distributed by American organizations.

On February 16 Secretary Bryan cabled Ambassador Page that the propositions received from the German Government on February 8 seemed to remove the reasons given by the British Government for stopping food intended for noncombatants.¹⁴ The Ambassador was instructed to state informally to the British Secretary for Foreign Affairs that a policy which aimed to keep food from the civil population of a nation, would create a very unfavorable

¹² Document 41.

¹³ Document 47.

¹⁴ Document 51.



impression throughout the world. Also he should suggest that the German declaration of February 4, that the waters surrounding Great Britain and Ireland were to be considered as an area of war,¹⁷ would probably be withdrawn if the food question could be adjusted.

Four days later, February 20, the Secretary of State suggested the following arrangement to the British and German Governments:¹⁸

1. Germany should agree that all its importations of food from the United States should be consigned to agencies designated by the United States; that these agencies should have entire control of the importations and should distribute them solely to retail dealers licensed by the German Government to receive and furnish food to noncombatants; and that the food should not be requisitioned by the German Government or be diverted to its armed forces.

2. Great Britain should agree that food should not be placed upon the absolute contraband list and that food cargoes should not be interfered with or detained if consigned to the agencies in Germany designated by the United States.

3. Germany and Great Britain should agree that: (a) they should not use submarines to attack merchant vessels of any nationality except to enforce the right of visit and search; (b) they should not sow floating mines on the high seas or in territorial waters, and should not plant anchored mines on the high seas "except within cannon range of harbors for defensive purposes only"; (c) they should require their respective merchant vessels not to use neutral flags for the purpose of disguise or *ruse de guerre*.

The Secretary stated that in submitting this proposal the United States did not wish to be understood as admitting or denying any belligerent or neutral right established by the principles of international law. The United States should consider the agreement a *modus vivendi* based upon expediency rather than legal right.

This proposal, however, was not acceptable to the belligerents.

BRITISH ORDER IN COUNCIL, MARCH 11, 1915

In retaliation against the German announcement of February 4, 1915, that the waters surrounding Great Britain and Ireland were to be considered as an area of war, the following declaration was made: "the British and French Governments will therefore hold themselves free to detain and take into port ships carrying goods of presumed enemy detination, ownership or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation."

The Secretary of State commented on this declaration in cables of March 5 to the American Ambassadors in Great Britain and

¹⁷ See p. 52.

¹⁸ Document 52.

France.¹⁹ He stated that the apparent intention of the two powers to interfere with and take into custody all ships trading with Germany was in effect a blockade of German ports, although there was no assertion of the rule that ships attempting to enter or leave a German port might be condemned. Furthermore, the first sentence of the declaration claimed a right pertaining only to a state of blockade and the last sentence proposed a treatment of ships and cargoes as if no blockade existed. The two together presented "a proposed course of action previously unknown to international law," and as a consequence neutrals had no standard by which to measure their rights or to avoid danger to their ships and cargoes. The Secretary believed that the British and French Governments ought to assert whether they relied upon the rules governing a blockade or the rules applicable when no blockade existed.

Secretary Bryan was "fully alive to the possibility" that the use of the submarine for defensive and offensive operations might make the former means of maintaining a blockade a physical impossibility. However, he felt that there should be some limit to the radius of activity, especially if this action by the belligerents could be considered a blockade.

The declaration of the Allies was made effective by a British order in council of March 11, 1915,²⁰ and by a French decree of March 13.

President Wilson stated in a letter of March 24 to Secretary Bryan that the United States was "face to face" with something the British Government intended to do, "and they are going to do it no matter what representations we make."²¹ The President felt that the United States could but express clearly its attitude and state that it expected to hold the British Government to a "strict responsibility" for every invasion of American neutral rights. In this connection, he called attention to Ambassador Page's statement of March 21 that American export trade with the Allies was increasing rapidly and would "grow by leaps till the war ends."²² He also called attention to Ambassador Gerard's statement of the same date that German embargoes had practically stopped all trade between the United States and Germany; that American cotton ships brought nothing on their return voyage.²³

The case of the United States against the British order in council of March 11, 1915, was set forth in Secretary Bryan's cable of March 30 to the American Ambassadors in Great Britain and France.²⁴ The

¹⁹ Document 53.

²⁰ Document 54.

²¹ Document 57.

²² Document 55.

²³ Document 56.

²⁴ Document 58.

Secretary stated that the order in council constituted "a practical assertion of unlimited belligerent rights over neutral commerce within the whole European area and an almost unqualified denial of the sovereign rights of the nations now at peace." He held that the following rights had been conceded to a belligerent: (1) the right of visit and search; (2) the right to capture and condemn neutral vessels found to be engaged in unneutral service or to be carrying contraband of war intended for the enemy's government or armed forces; (3) the right to blockade enemy ports and coasts and to capture and condemn vessels taken in trying to break the blockade; (4) the right to detain and take into port for judicial examination all vessels which it suspected "for substantial reasons" to be engaged in unneutral or contraband service, and to condemn them if the suspicion was sustained. These had been considered the "only permissible exceptions" to the principle of universal equality of sovereignty on the high seas of belligerents and neutrals. The Secretary declared that he could admit no British claim of justification for interfering with the neutral rights of the United States; to admit the claim "would be to assume an attitude of unneutrality towards the present enemies of Great Britain."

Secretary Bryan mentioned that in the note transmitted with the order in council of March 11 the British Government had informed the United States of their intention "to establish a blockade to prevent vessels from carrying goods for or coming from Germany."²⁵ He stated that the unprecedented feature of the so-called blockade was that it barred access to many neutral ports and coasts and subjected approaching neutral ships to unusual risks and penalties and to the same suspicion that would attach to them if they were bound for ports of Great Britain's enemies. Although operations were to be confined to European waters, the area of the high seas covered was so great and the cordon of ships was so distant from the territory affected that neutral vessels must pass through the blockading force to reach important neutral ports. He stated that the British Government had no legal right to blockade these ports and that, therefore, they presumably had no intention of claiming to blockade them.

The Secretary was "not oblivious to" the great changes which had occurred in the conditions and means of naval warfare since the formulation of the rules that previously governed legal blockade. He "might be ready to admit that the old form of 'close' blockade with its cordon of ships in the immediate offing of the blockaded ports" was no longer practicable in the face of an enemy capable of making an effective defense by submarines, mines, and aircraft.

²⁵ Document 54.

But whatever form of effective blockade might be used, the Secretary thought it was possible to conform to the spirit and principles of established rules of war. If it seemed imperative that the cordon of blockading vessel should be extended across the approaches to a neighboring neutral port or country, he felt that the prohibition against blockading neutral ports could be easily complied with by admitting through the blockading cordon all traffic to or from the neutral country except contraband for the enemy. This procedure need not conflict with rights of the belligerent maintaining the blockade since the blockading vessels could visit and search all ships entering or leaving the neutral territory "which they were in fact, but not of right, investing."

Secretary Byran expressed gratification over statements in the British note that the extent of exercise of the powers conferred by the order in council would depend upon administrative orders and decisions, and that the fleet and the customs officials would be instructed to show such consideration for neutrals as might be compatible with the object of the British Government. In view of these assurances, he expected that the extensive powers conferred by the order in council would be restricted in practical application to modify the provisions which, "if strictly enforced, would violate neutral rights and interrupt legitimate trade."

Three weeks after the dispatch of this instruction, the Secretary of State replied to an assertion of the German Embassy that it must assume that the United States acquiesced in the violations of international law by Great Britain.²⁶ The United States had "at no time and in no manner yielded any one of its rights as a neutral" to any one of the belligerents, he stated. It had admitted the right of blockade if actually exercised and effectively maintained, the right of visit and search, and the right to apply the rule of contraband. The United States had conceded nothing beyond these "well-known limitations which war places upon neutral commerce on the high seas."

On May 13 the first American note was sent to Germany in regard to the sinking of the *Lusitania*.²⁷ On the following day Secretary of State Bryan and Counselor Lansing discussed the advisability of sending a note of complaint to Great Britain for violation of American rights on the high seas.²⁸ Mr. Lansing immediately prepared a draft note which he considered an "uncompromising presentation." He favored sending a note, as the British treatment of American vessels and cargoes bound for neutral countries was "in flagrant violation of law", and as the sending of a note would

²⁶ Document 68.

²⁷ See p. 58.

²⁸ Document 86.

"evince our impartial purpose" to protect American rights. He thought the United States had "already been too complacent" with the British Government. However, no note of protest was sent to Great Britain at this time.

Ambassador Gerard in Germany was instructed on May 23 to inquire whether the German Government might renew the American proposals of February 20³⁰ with the addition of a mutual agreement to discontinue the use of poisonous gases.³¹ Four days later Counselor Lansing "confidentially and personally" urged upon the British Ambassador the acceptance of the American proposals.³²

The Counselor stated that Germany apparently was not suffering from lack of food, but had sufficient to last until the next harvest when there would be an abundance. Although it was admitted that Germany could not be starved by the interruption of food imports, he stated that the British Government continued their attempt to stop the trade. They were open to the charge of inhumanity "by attempting to reduce Germany by starvation". He pointed out that the idea of starving men, women, and children seemed to many people as inhuman as drowning them; that the legality of the attempt was "neither here nor there"; and that the attempt offered a plausible excuse for Germany's sinking of unarmed merchantmen. He felt that the British Government had nothing to lose by allowing food to go to the German civil population, as it was admitted that Germany could not be starved into submission. On the other hand, they had much to gain since Germany would have to stop submarine attacks or else bear alone the stigma of being cruel and inhuman. Mr. Lansing mentioned that he did not suggest this course on humanitarian grounds, but solely on the ground of expediency. The British Ambassador stated that he would urge the adoption of the course suggested.

The American proposal of February 20 was never accepted by the belligerents.

Although a full statement of the position of the United States with regard to British measures was not made until October, three pronouncements were made during July by Mr. Lansing, who had been commissioned as Secretary of State on June 23, 1915. On July 14 he gave notice to Great Britain that the United States would not recognize the validity of "proceedings taken in prize court under restraints imposed by British municipal law in derogation of" the rights of American citizens.³³

³⁰ See p. 16.

³¹ Document 88.

³² Document 92.

³³ Document 104.

Ambassador Page was instructed on the following day that the United States regarded the "international invalidity" of the order in council of March 11, clearly shown by a seizure of American-owned goods, passing from the Netherlands to the United States, "merely because the goods came originally from territory in the possession of Great Britain's enemy."³⁴ He "must insist" upon the rights of American owners of goods to bring them out of the Netherlands in neutral ships, even though these ships might have come originally from territory of Great Britain's enemies.

Ambassador Page reported at about this same time that cotton would be added to the British list of absolute contraband. On July 26 the Secretary of State told the British Ambassador that if the British Government should put cotton on the contraband list it would be a confession that their alleged blockade was ineffective.³⁵ If it were effective and their theory of blockade were correct, it would be unnecessary to declare cotton contraband, since all articles would be prevented from entering or leaving Germany. Furthermore, if cotton should be made contraband, the United States would have to assume that the British theory of blockade had been abandoned, so far as neutral ports were concerned.

The British Government declared on August 20 that cotton would be treated as absolute contraband.³⁶

PROTEST TO GREAT BRITAIN, OCTOBER 21, 1915

The most comprehensive statement of the case of the United States against British interference with American commerce was contained in Secretary Lansing's note of October 21, 1915.³⁷ In this note to the British Government, three causes of complaint were discussed:

1. *Detention of American vessels and cargoes.*—The Secretary stated that these detentions had not been uniformly based on proofs obtained at the time of seizure; many vessels had been detained while search was made for evidence of the contraband character of cargoes or of an intention to evade British measures. In considering whether this evidence should be obtained by search at sea before the vessel or cargo was taken into port, he mentioned that text writers on international law gave practically no consideration to the question of search in port, outside of examination in the course of regular prize-court proceedings. Furthermore, instructions issued to naval commanders of the United States, Great Britain, France, Germany, Japan, Russia, and Spain from 1888 to the beginning of the existing

³⁴ Document 105.

³⁵ Document 108.

³⁶ See p. 36.

³⁷ Document 131.

war showed that search in port was not contemplated by the Government of any of these countries, but that search was to be made at sea.

The Secretary held that "modern conditions" did not justify bringing vessels into port for search. He stated that the effect of the size and seaworthiness of merchant vessels upon their search at sea had been submitted to a board of naval experts, which reported that it had never been considered necessary to remove the entire cargo of a ship to establish the character of its trade and service. The board had reported further that the facilities for boarding and inspecting modern ships were in fact greater than in former times, and there appeared to be no difference, except possibly in time, between the search of a ship of a thousand tons and one of twenty thousand. And the board had concluded that the search of vessels in port would be a direct aid to belligerents as the release of a belligerent vessel from the duty of search would free it for further belligerent operations.

In connection with the question of search, the Secretary discussed the character and sufficiency of evidence of the contraband nature of shipments to warrant the detention of a suspected vessel or cargo for prize proceedings. When a vessel was brought in for adjudication, prize courts had previously been bound to consider at the first hearing "only the ship's papers and documents, and the goods found on board together with the written replies of the officers and seamen to standing interrogatories". The introduction of additional evidence was not allowed except upon an order of the court for further proof. He stated that this was the practice of American courts during the War of 1812, the Civil War, and the War with Spain, and had been the practice of British prize courts for over a century. This practice had been changed at the beginning of the existing war, he continued, by British prize court rules under which there was no longer a first hearing on evidence derived from the ship, and under which the prize court was no longer precluded from receiving extrinsic evidence for which a suggestion had not been laid in the preparatory evidence. The result was that innocent vessels or cargoes were seized and detained on mere suspicion while efforts were made to obtain evidence from extraneous sources to justify detention and commencement of prize proceedings. Traders were subjected to risks "so burdensome as practically to destroy much of the export trade of the United States to neutral countries of Europe".

Secretary Lansing did not believe that the greatly increased imports of neutral European countries raised a presumption that certain commodities destined for them were intended for reexportation to belligerents, or that this fact justified detention for examination

of all vessels bound for those neutral countries. The presumption was too remote from the facts and offered too great an opportunity for abuse by a belligerent. The Secretary stated that as British exports to neutral European countries had materially increased since the beginning of the war, Great Britain thus shared in bringing about a condition which was considered a sufficient ground to justify the interception of American goods destined for those countries. If there should be a further increase of British exports to those countries, the presumption of enemy destination could be applied to a greater number of American cargoes, and "American trade would suffer to the extent that British trade benefited".

When goods were clearly intended to become incorporated into the mass of merchandise for sale in a neutral country, the Secretary considered unwarranted the detention of the goods to determine whether they were ultimately destined for the enemy. He considered as illegal and unjustifiable belligerent attempts to interfere with the right of sale of goods into the general stock of a neutral country because of a suspicion that the previous supply had been sold to an enemy. Even if goods listed as conditional contraband were destined to an enemy country through a neutral country, that fact was not in itself sufficient to justify their seizure. Secretary Lansing contested the seizures of vessels at sea upon "conjectural suspicion", and the practice of bringing them into port to obtain evidence of the carriage of contraband or of breaches of the order in council of March 11, 1915.

2. *The "blockade" established by the British order in council of March 11, 1915.*—Secretary Lansing gave notice that the United States could not recognize as legal the blockade which the British Government claimed to have instituted. He called attention to the provision of the Declaration of Paris that "blockades, in order to be binding, must be effective." He stated that the German coasts were open to trade with Scandinavian countries and that German naval vessels cruised in the North Sea and in the Baltic and brought into German ports neutral vessels bound for Scandinavian ports. Furthermore, as the British Government had placed cotton on their list of contraband, they apparently had been forced to conclude that the blockade was ineffective to prevent shipments of cotton from reaching their enemies, or doubted the legality of their blockade.²⁸

The Secretary pointed out that a blockade must be applied impartially to the ships of all nations. However, the principle was not applied in the British blockade, for German ports were open to traffic with the ports of Denmark, Norway, and Sweden. He mentioned that in the Crimean War the judicial committee of the Privy

²⁸ See p. 21.

Council held that if belligerents themselves traded with blockaded ports, those ports could not be regarded as effectively blockaded. This decision appeared significant to the Secretary, as Great Britain exported and reexported large quantities of merchandise to Denmark, Norway, Sweden, and the Netherlands, whose ports were regarded as blockaded so far as American commerce was concerned.

Furthermore, the Secretary held that there was no better settled principle of international law than that which forbade the blockade of neutral ports.

3. *British prize court procedure.*—Secretary Lansing stated that the British Government apparently expected that American citizens adversely affected by interference with ships and cargoes should seek redress in British prize courts, and that pending the exhaustion of these legal remedies the Government could not continue to deal through diplomatic channels with individual cases. But the cases which the British Government would have claimants present to their prize courts, he stated, resulted from acts committed by British authorities upon the high seas, where jurisdiction over neutral vessels was acquired solely by international law. Vessels flying a neutral flag, he continued, were seized without facts warranting a reasonable suspicion that they were destined for blockaded enemy ports or that their cargoes were contraband. Justification for the seizure appeared to be in orders in council and regulations for their enforcement, in spite of the fact that in many cases these were considered by claimants as contrary to international law. If the prize courts were bound by the regulations under which seizures and detentions were made, he considered them powerless to pass upon the real ground of complaint or to give redress for these wrongs. Although claimants might request the prize courts to rule upon the claim of conflict between an order in council and a rule of international law, he questioned whether a tribunal "fettered in its jurisdiction and procedure by municipal enactments" could declare itself free from their restrictions and at liberty to apply the rules of international law. The laws and regulations which bound the courts, he stated, were matters of dispute between Great Britain and the United States.

Secretary Lansing felt that prize courts offered no means of reparation for the "disastrous effect" of the methods of the Allied Governments upon the commerce of the United States. He stated that the delay and expense in bringing vessels into port for search and investigation upon mere suspicion had a deterrent effect upon trade which could not be adequately measured in damages. Furthermore, the menace of interference with legal commerce caused the withdrawal of vessels from their usual trade routes and the refusal of insurance on vessels and cargoes. Prize courts which were free to

apply the law of nations might mete out an adequate indemnity for specific injuries suffered by private interests, but obviously British prize courts offered no remedy for the injury to the trade of a nation "by the menace of unwarranted interference with its lawful and established pursuit".

Furthermore, the Secretary stated that American citizens could not submit their wrongs to British prize courts for reparation because of the manner in which jurisdiction in these cases was obtained. He held that the jurisdiction over merchant vessels on the high seas was that of the nation whose flag they rightfully were flying. Municipal enactments of a belligerent power, he continued, could not confer jurisdiction over or establish rules of evidence governing the legality of seizures of neutral vessels on the high seas, as international law alone controlled the exercise of the belligerent right to seize and detain these vessels. He stated that jurisdiction obtained in this manner "should invalidate any disposition by a municipal court of property thus brought before it." The Secretary viewed "with surprise and concern", therefore, British attempts to confer jurisdiction upon British prize courts "by this illegal exercise of force." He felt that he could not be expected to advise American citizens to seek redress before tribunals which were considered unauthorized to grant reparation, nor to refrain from presenting their claims through diplomatic channels to the British Government.

The Secretary had been advised, he stated, that vessels and cargoes brought in for examination prior to prize proceedings were released only upon condition that expenses such as pilotage, harbor dues, and warehousing should be paid by the claimants or on condition that they sign a waiver of right to bring subsequent claims against the British Government for these exactions. He denied that the charges incident to the detentions were rightfully imposed, or that any waiver of indemnity exacted from American citizens under these conditions of duress could preclude them from obtaining redress through diplomatic channels.

In concluding this long note of October 21, 1915, Secretary Lansing stated he believed it had been "conclusively shown" that there was no justification for the British methods of obtaining and using evidence of enemy destination of cargoes bound for neutral ports and of imposing a contraband character upon the cargoes; that the blockade was ineffective, illegal, and indefensible; that the judicial procedure offered as a means of reparation was inherently defective for the purpose; and that jurisdiction was often asserted in violation of international law. Finally, the United States could not submit to the curtailment of its neutral rights by measures which were "admittedly retaliatory, and therefore illegal".

ITALIAN BLOCKADE MEASURES IN THE ADRIATIC SEA

On November 2, 1915, Secretary Lansing sent instructions to the Ambassador in Italy in regard to declarations by the Italian Government of an intention to establish a blockade along the coast of Albania and to establish a line beyond which navigation without permission of Italian authorities was forbidden and would be regarded as a breach of blockade.³⁹ According to articles 1 and 18 of the Declaration of London, the Secretary pointed out, a blockade must not extend beyond enemy territory and must not bar access to neutral ports or coasts. Italy had accepted these articles without modification. Although the United States did not consider the Declaration of London binding in the existing war, the Secretary believed that these two articles accurately stated the established rules of blockade.

Secretary Lansing stated that he was unable to admit Italian contentions that (1) positive rules of law did not limit the powers of belligerents to close a portion of the high seas to innocent neutral navigation, and that (2) the action was justified by the "peculiar conditions of the Adriatic and its coasts, in the relations of traffic and Italian defense." The Secretary protested, therefore, against the prohibition of free navigation on the high seas of the Adriatic and of access to neutral shores of that sea. He gave notice that the United States could not recognize the validity of action for the enforcement of these prohibitions upon American ships or American citizens, and would expect the Italian Government to make reparation for any loss or damage resulting to the United States or its citizens from the infringement of their rights.

INTERFERENCE WITH THE MAILS

Secretary of State Lansing cabled Ambassador Page in Great Britain on January 4, 1916, that British authorities were removing parcel mail from ships plying between the United States and neutral European countries.⁴⁰ The Secretary stated that in respect to belligerent search, seizure, and condemnation, parcel-post articles should be subject to the same treatment as articles sent by express or freight. On the other hand, parcel-post articles were entitled to the usual exemptions of neutral trade, and the protests of the United States in regard to the unlawful bringing in of ships for search in port, the illegality of the so-called blockade, and the improper assumption of jurisdiction over vessels and cargoes, applied to commerce using parcel-post service.

³⁹ Document 133.

⁴⁰ Document 150.

Secretary Lansing also considered the British treatment of correspondence. He did not admit the right of British authorities to seize neutral vessels plying directly between American and neutral European ports, to bring them into a British port, and while there, to remove or censor mails carried by them. It was generally recognized, he stated, that mails were not to be censored, confiscated, or destroyed on the high seas, even when carried by belligerent mail ships. To attain the same end by bringing mail ships within British jurisdiction for search and then subjecting them to local regulations allowing censorship of mails could not be justified on the ground of national jurisdiction. In cases where neutral mail ships merely touched at British ports, the Secretary believed British authorities had no international right to remove the sealed mails or to censor them on board, as mails on these ships did not "rightfully" come into British custody.

The contentions of the British and French Governments regarding the right to detain and examine mails *en route* between the United States and Europe were presented in a joint memorandum of February 15, 1916, transmitted on April 3 to the Department of State. The memorandum closed with the statement that the Allied Governments would refrain on the high seas from seizing and confiscating "genuine correspondence", letters, or dispatches, and would "insure their speediest possible transmission as soon as the sincerity of their character shall have been ascertained".

In a reply of May 24, Secretary Lansing expressed satisfaction that the British and French Governments did not claim that the so-called blockade measures were sufficient to justify interfering with all classes of mail matter in transit to or from the Central Powers.⁴¹ Their contention appeared to him to be that, as genuine correspondence was inviolable, other mail was subject to detention and examination. He agreed that genuine correspondence was inviolable, but did not admit that belligerents might search other private sea-borne mails for any other purpose than to discover whether they contained enemy-owned articles or contraband articles transmitted under sealed cover as letter mail. However, they might intercept at sea all mail coming out of and going into effectively blockaded enemy ports.

Though giving assurances that they considered genuine correspondence inviolable and that they would refrain on the high seas from seizing and confiscating it, the Secretary believed that the Allied Governments deprived neutrals of the benefits of these assurances by seizing and confiscating mail from vessels in port instead of at sea. He stated that the Allies acquired an illegal jurisdiction

⁴¹ Document 195.

over neutral ships by compelling them without just cause to enter Allied ports, by inducing shipping lines through some form of duress to send mail by way of British ports, or by detaining all vessels merely calling at British ports. All mails were removed and taken to London where they were opened and critically examined to determine the "sincerity of their character", in accordance with the interpretation given that phrase by British and French censors. The "expurgated remainder" was finally forwarded to its destination, frequently after irreparable delay.

Secretary Lansing insisted that the British and French Governments did not rightfully obtain jurisdiction over ships by forcing or inducing them into their ports for the purpose of seizing their mails, "or thereby obtain greater belligerent rights as to such ships than they could exercise on the high seas". He could see no legal distinction between the seizure of mails at sea and seizure from vessels voluntarily or involuntarily in port. The Secretary considered the British and French practice a violation of the spirit of their announcement of February 15, and of the earlier practice of nations. He mentioned that during the war between the United States and Mexico, American forces had allowed British steamers to enter and depart from the port of Vera Cruz without molesting the mails intended for inland points. And during the Civil War Secretary of State Seward had announced that certified or authenticated public mails of any friendly or neutral power should not be searched or opened. During the existing war, the Secretary stated, Germany had refrained from interfering with neutral mails, even on board belligerent vessels.

The Secretary of State admitted that parcel-post articles might be treated as merchandise subject to the exercise of recognized belligerent rights, and expressed the opinion that, stocks, bonds, and similar securities, money orders, checks, drafts, notes, and other negotiable instruments, might be classed as merchandise. He believed that unmolested passage should be accorded to correspondence, including shipping documents and money-order lists, even though relating to enemy supplies or exports, unless carried on the same ship as the property referred to.

Secretary Lansing stated that the arbitrary methods employed by the British and French Governments in interrupting mails had resulted disastrously to American citizens. As American commercial interests were injured, property rights were violated, and the rules of international law were disregarded, the United States would be "compelled in the near future to press claims for full reclamation" upon the British and French Governments. Finally, the Secretary stated that the United States could "no longer tolerate" these lawless practices; that to submit to them would

be to clear the way for repeated violations of international law by belligerent powers on the ground of military necessity; that a neutral nation could not permit its rights on the high seas to be determined by belligerents; and that the rights of neutrals were "as sacred as the rights of belligerents and must be as strictly observed".

The reply of October 12, 1916, of the Allies defended their treatment of mails. On October 17 Secretary Lansing wrote the President that in considering the subject "we should bear in mind that, while we are neutral in the present war, we may be belligerent in the next and may deem it necessary to do certain things which we now regard as extreme restrictions upon neutrals".⁴² He recommended that the United States should insist that mail coming from neutral countries in continental Europe should be treated as inviolable and should not be subject to detention, inspection, or seizure. Furthermore, the extent and exercise of the belligerent right to detain, inspect, or seize mail going to continental Europe should be submitted immediately to arbitration or to a joint commission of inquiry. On November 14 he suggested to President Wilson that this proposition be incorporated in a note to the British Government and on the 26th the President authorized that such a note should be prepared.⁴³ A month later the President informed Secretary Lansing that he would "discuss this and other kindred matters with you when we have seen just what the several belligerents are willing to do about discussing terms of peace".⁴⁴

A further general statement on the subject was not sent to the Allies. However, on the day the United States entered the war, Secretary Lansing informed the Ambassadors in Great Britain and France that numerous complaints had been received from American citizens that remittances to persons in Germany, Austria-Hungary, and in neutral countries, had been detained by British and French authorities.⁴⁵ The Secretary called attention to his statement of May 24, 1916, that money orders, checks, drafts, notes, and other negotiable instruments might be classed as merchandise, and instructed the Ambassadors to state that the United States reserved all rights to press claims for unjustified losses or delays resulting to American citizens through the detention of these articles.

BRITISH BLACK LIST AND BUNKER CONTROL

Secretary Lansing cabled Ambassador Page in Great Britain on January 25, 1916, that he had given consideration to the British Trading with the Enemy Act of December 23, 1915, the "apparent

⁴² Document 208.

⁴³ Document 210.

⁴⁴ Document 214.

⁴⁵ Document 244.

object" of which was to prevent any person who was doing business in the United Kingdom from trading with enemies of Great Britain.⁴⁶ The Secretary stated that this act had been framed without a proper regard for the right of persons in the United States to trade with persons in belligerent countries. He expressed the "grave apprehensions" which were "entertained on this subject by this Government, by the Congress, and by traders domiciled in the United States." The Ambassador was instructed to present a formal reservation to the British Government of the right to protest the application of the act.

Six months later, July 26, 1916, Acting Secretary of State Polk cabled Ambassador Page in regard to an announcement of a few days previous that the British Government had placed upon a proscriptive black list the names of certain persons, firms, and corporations in the United States, and had forbidden all financial or commercial dealings between them and subjects of Great Britain.⁴⁷

The Acting Secretary stated that this announcement had been received with the "most painful surprise" by the people and Government of the United States. The scope and effect of the policy he considered "extraordinary." British steamship lines would not accept cargoes from listed firms or transfer their goods to any port. Neutral steamship lines understood that if they accepted freight from those on the list they were likely to be denied coal at British ports, and might themselves be put upon the black list. Neutral bankers refused loans to those listed, and neutral merchants declined to contract for their goods, fearing a like proscription. Furthermore, he understood that Americans doing business in foreign countries had been notified that their dealings with blacklisted firms were to be regarded as subject to veto by the British Government.

Although these British measures apparently were directed only at the enemies of Great Britain and would be enforced with strict regard to the rights of neutrals, Acting Secretary Polk felt they were essentially inconsistent with those rights. American citizens were entirely within their rights in attempting to trade with the people or the government of any belligerent, he stated, subject only to well-defined international practices which the United States believed that Great Britain had "too lightly and too frequently disregarded."

There were remedies and penalties, he stated, for breaches of an effective blockade, for trade in contraband, and for every unneutral act. The United States could not consent to see these remedies and penalties altered or extended at the will of a single power or group

⁴⁶ Document 160.

⁴⁷ Document 198.

of powers. Although it was an accepted principle among nations that neutrals might not be condemned nor their goods confiscated except upon fair adjudication and after an opportunity to be heard in prize courts or elsewhere, the black list condemned "without hearing, without notice, and in advance".

The Acting Secretary stated that whatever might be said regarding the legality, "in the view of international obligation", of the act of Parliament upon which the practice of the black list was based, the United States considered the practice inconsistent with the justice, amity, and impartial fairness which should characterize the relations of friendly governments. Finally, the United States could not consent that its citizens should be placed upon an *ex parte* black list without calling the attention of the British Government, "in the gravest terms, to the many serious consequences to neutral rights and neutral relations which such an act must necessarily involve".

Great Britain replied on October 10, 1916, that the black list had been issued in accordance with purely municipal legislation, that it was not directed against neutral trade, that it was part of the general belligerent campaign designed to weaken the enemy, and that the only disability suffered by listed persons was that British subjects were prohibited from giving them the assistance of British credit and British property. This note was not answered by the United States.

A few weeks after the American note on the black list had been sent to Great Britain, Secretary Lansing cabled Ambassador Page in regard to the British "white list" of ships whose owners had accepted certain requirements of the British Government. An American steamship carrying a Philippine cargo had been refused coal at Colombo, Ceylon, because the ship was not on this white list.⁴⁸ Secretary Lansing stated that the Government of the United States was "loath to believe" that the British Government, instead of being content with the exercise of recognized belligerent rights, would continue to "resort to such arbitrary practices as this" in cases in which there were apparently no legal grounds for interference with neutral trade.

On December 28, 1916, Secretary Lansing protested the application of Great Britain's policy in regard to the granting of bunkers to neutral ships.⁴⁹ He stated that American steamship lines had been told that they could not charter or use ships of other neutral countries, which ships had accepted a bunker agreement with Great Britain, unless the American company agreed to bind both the chartered ships and its own ships. The Secretary believed that this

⁴⁸ Document 199

⁴⁹ Document 215.

British policy indicated "an intention to secure control of all neutral shipping through so-called agreement". He stated that if the agreement were limited to the chartered ships which accepted the agreement, he could understand the British position, but the attempt to control American ships not requiring British facilities could "not possibly be permitted by this Government".

ABANDONMENT OF THE DECLARATION OF LONDON

On March 30, 1916, a British order in council was issued which contained further modifications to the Declaration of London and which foreshadowed even more severe treatment of neutral commerce than had been provided for by earlier orders in council. Secretary Lansing reminded Ambassador Page by a cable of April 8⁵⁰ that this order in council related to questions discussed in the American note of October 21, 1915, and that the note had not been answered. The Secretary considered "intentionally discourteous" the action of the British Government in issuing an order in council making more rigorous the practices to which the United States was objecting.

Although the Secretary stated in the cable of April 8 that he had under consideration a statement in regard to the latest order in council, no note on the subject was sent to Great Britain. And the British reply of April 24, 1916, to the American note of October 21, 1915, was not answered by the United States.

By an order in council of July 7, 1916, Great Britain withdrew all recognition of the Declaration of London and proclaimed other rules for the conduct of maritime warfare, and France issued a decree to the same effect. Ambassador Page was instructed on September 18 to notify the British Government that "in several respects" the rules set forth in this order in council were considered out of accord with the law and practice of nations.⁵¹ Furthermore, the United States reserved the right to question the validity of these rules, and to present claims if American interests were unlawfully affected by their application.

The British Government then stated that if the United States did not consider the rules cited in the order in council to be in accordance with international law, these rules should be challenged in prize court. In a reply, Secretary Lansing stated that the United States "must announce that it, of course, has no intention to resort to British courts" for the maintenance of American rights infringed by British orders in council.⁵²

Secretary Lansing advised the President in a letter of September 22, 1916, that steps should be taken to impress the British Govern-

⁵⁰ Document 178.

⁵¹ Document 201.

⁵² Document 211.

ment with the "growing irritation in this country at the black-listing, censorship of mails and other measures adopted by Great Britain, and the indifference shown by the British Government in failure to make prompt reply to our notes".⁵³ He advised that the Chargé at London be given an instruction on the subject which he should confidentially show to the British Secretary for Foreign Affairs. The Secretary enclosed a draft telegram stating that during the war not one rule contended for by the United States had been admitted by the British Government; that in no important instance had the British Government "modified their pretensions to extraordinary belligerent privileges so as to conform their conduct to established usage". Furthermore, the exportation from the United States to the Allied Powers of thousands of shiploads of munitions, food, clothing, and metals, while their enemies had been able to obtain scarcely a single cargo, "and the forbearance, if not the leniency, shown by this Government toward Great Britain in cases involving grave breaches of international law", had led the British Government to misjudge American policy. If the British Government was expecting an attitude of "benevolent neutrality" on the part of the United States, they should know that "nothing is further from our intention".

President Wilson considered it unwise to send this message. He had recently talked with Ambassador Page and was sure the Ambassador would be able to convey to the British Government "the lamentable and dangerous mistakes they are making". The President had covered the subject matter dealt with in Secretary Lansing's letter "in a way which I am sure left nothing to be desired in the way of explicitness or firmness of tone".⁵⁴

⁵³ Document 203.

⁵⁴ Document 204.

CHAPTER III

CONTRABAND OF WAR

PROCLAMATION OF NEUTRALITY, AUGUST 4, 1914

In a proclamation of neutrality, August 4, 1914,¹ the President stated that persons in the United States might "lawfully and without restriction" manufacture and sell within the United States arms, munitions, and other articles ordinarily known as contraband of war. However, they could not carry such articles upon the high seas for the use or service of a belligerent or attempt to break any lawful blockade "without incurring the risk of hostile capture and the penalties denounced by the law of nations".

FOOD AND GRAIN

Secretary of State Bryan held, in a letter of August 5,² that under generally accepted principles of international law, grain could be shipped by a neutral to a belligerent country unless the grain was intended for the use of the army or navy or some department of the government, or unless the port of destination was blockaded or occupied by armed forces. If the grain was not liable to capture for these reasons it could not be confiscated even when carried by a vessel flying a flag of one of the belligerents.

Secretary Bryan explained further on August 8 that wheat and provisions were classed as conditional contraband under generally accepted principles of international law, and consequently were subject to capture by belligerent vessels "if destined for a belligerent government, its army or navy, or its port blockaded or held by military forces".³ On September 26 Acting Secretary Lansing stated that the United States had always insisted that foodstuffs were legitimate articles of commerce, and that mere destination to an enemy port did not justify their seizure or confiscation.⁴

Statements made in 1915 in regard to shipments of food to Germany were mentioned in the preceding chapter.⁵

¹ Document 2.

² Document 3.

³ Document 6.

⁴ Document 13.

⁵ See pp. 15 and 16.

PUBLIC CIRCULAR OF AUGUST 15, 1914

The position of the United States on contraband in general was set forth in a public circular issued on August 15 by the Department of State.⁶ It stated that contraband of war was ranked under two heads, absolute and conditional. Absolute contraband included articles peculiarly adapted to war, such as arms, ammunition, and military and naval equipment. When destined to the government or to an individual of one of the countries at war, absolute contraband was subject to seizure and confiscation by a belligerent. Conditional contraband consisted of articles "susceptible of use in war as well as for purposes of peace". Articles of this character were considered contraband if destined to the army, navy, or a department of government of one of the belligerents, or to a place held by military forces.

The Department further stated that what was contraband of war was "to be determined by international law and usage, influenced in some degree by the positions assumed by the belligerents." The lists of absolute and conditional contraband announced by the British and German Governments were set forth in the circular and mention was made of the fact that these lists followed rather closely the ones included in the Declaration of London.

PETROLEUM, COTTON, TURPENTINE AND ROSIN

On September 22, 1914, Acting Secretary Lansing deemed it "hardly advisable" to intimate the extent to which the Department of State would support a contention that illuminating oil was exempt from contraband classification.⁷ The reason given for this stand was the indefinite attitude of the several belligerents "on the subject of contraband as applied to petroleum and its products." Four months later, after petroleum products had been proclaimed contraband by Great Britain, Secretary Bryan stated that in view of the absolute necessity of these products for the use of submarines, aeroplanes, and motors, the United States had not reached the conclusion that they were improperly included in a list of contraband.⁸ As military operations then were "largely a question of motive power through mechanical devices," it was difficult to argue successfully against the inclusion of petroleum.

Ambassador Page in Great Britain was instructed on October 24, 1914, to inquire whether the British Government would be willing to make a positive declaration that American-owned cotton ex-

⁶ Document 9.

⁷ Document 12.

⁸ Document 44.

ported in neutral vessels, and not destined for blockaded ports, would be immune from seizure and detention.⁸ On October 26 the Ambassador reported a statement of the Secretary for Foreign Affairs that cotton was not contraband and, so far as the British Government was concerned, would not be.

Nine months later Ambassador Page reported that the British Government intended to make cotton contraband and that their commercial attaché at Washington was instructed to come to some satisfactory working arrangement with the cotton interests whereby Great Britain would "buy large quantities at a good price". The Secretary of State discussed the question with the British Ambassador on July 26, 1915.⁹ If Great Britain should add cotton to the contraband list, he stated, resentment would be aroused in the United States by the feeling that the British Government had broken their promise, and the Government of the United States could not be held responsible for the consequences.

The United States did not protest when it was declared in a British proclamation of August 20, 1915, that cotton would be treated as absolute contraband.

The Acting Secretary of State asked the British Ambassador on October 29, 1914, if his Government would make a statement of the immunity from seizure of turpentine and rosin, which did not appear on the British lists of absolute or conditional contraband.¹⁰ The Ambassador gave assurances on November 1 that the British Government then had no intention of interfering with turpentine and rosin. On December 22 he informed the Department of State that his Government had decided to add turpentine and rosin to the list of absolute contraband. The Secretary of State replied to the Ambassador that this information was received with "profound regret" and that he reserved for future communication the objections which the United States might have to this British action.¹¹

On January 21, 1915, Secretary Bryan instructed Ambassador Page in Great Britain to ascertain whether the British Government would consider removing rosin from their contraband list.¹² The Secretary stated that although rosin apparently was used in the preparation of explosives to render them impervious to dampness, the amount used for this purpose was comparatively small. The amount of rosin which might be used by Germany and Austria in the preparation of explosives, he considered of no particular consequence, as the known quantities of rosin in those countries would afford them a supply for that use for an indefinite period.

⁸ Document 28.

⁹ Document 108.

¹⁰ Document 29.

¹¹ Document 39.

¹² Document 45.

He stated that the prevention of exports of rosin to these countries would affect substantially only the trade of the United States in the article for commercial uses.

The British Government did not remove rosin from its contraband list, however, to meet the wishes of the United States.

DEFINITION OF CONTRABAND

Secretary of State Bryan discussed the subject of contraband in his letter of January 20, 1915, to the Chairman of the Senate Committee on Foreign Relations.¹³ He stated that there was no general agreement among nations on the articles to be regarded as contraband, and that it was customary for a country, either in time of peace or after the outbreak of war, to declare the articles which it would consider as absolute or conditional contraband.

The Secretary believed that the record of the United States in the past was not free from criticism. When neutral, it had "stood for a restricted list" of absolute and conditional contraband. As a belligerent, the United States had contended for a liberal list, according to its "conception of the necessities of the case."¹⁴

Secretary Bryan stated that the Government had under consideration the question of the right of a belligerent to include copper in a list of absolute contraband instead of in a list of conditional contraband. As the Government had in the past placed in its contraband list all articles used in the manufacture of ammunition, it necessarily found "some embarrassment" in dealing with the subject. Three months later, the Secretary stated that the United States was not in a position to make any objection to the classification of copper as absolute contraband by the British Government.¹⁵

The Italian Government requested the consent of the United States, in May 1915, to the issuance of a list of contraband more extensive than the one contained in the treaty of 1871 between the United States and Italy. The Department of State replied that the contraband lists published by the other belligerents comprised numerous articles not included in this treaty and other treaties of the United States with the warring powers.¹⁶ Therefore, the United States would not object to the list of contraband proposed to be issued by the Italian Government, on the ground that it did not conform to the list in the treaty of 1871.

In the long note of October 21, 1915, to Great Britain, Secretary Lansing mentioned that there was no intention to commit the United States to a policy of waiving any objections which it might

¹³ Document 44.

¹⁴ Cf. vol. I, pp. 116-117.

¹⁵ Document 70.

¹⁶ Document 90.

entertain in regard to the propriety and right of the British Government to include in their list of contraband certain articles which had been included.¹⁶ The Secretary reserved the right to make the matter the subject of a later communication to the British Government.

Six months later, April 13, 1916, the British Government announced that they intended to treat alike absolute and conditional contraband. After a lapse of seven months, Secretary Lansing stated the position of the United States in regard to the contraband policy of the Allies. He directed Ambassador Page on November 11, 1916, to notify the British Government of the reservation of all rights of the United States in regard to any American interests which might be adversely affected by the abolition of the distinction between the two classes of contraband, or by the "illegal extension of the contraband lists during the present war by Great Britain or her allies."¹⁷

THE "WILLIAM P. FRYE"

On March 31, 1915, the Ambassador in Germany was instructed to request that full reparation be made by the German Government for the destruction of the American sailing vessel, *William P. Frye*.¹⁸ This vessel, bound for Great Britain with a cargo of wheat consigned "to order", was sunk on the high seas by a German armed cruiser after the commander of the cruiser had attempted to remove the wheat and after he had taken the crew on board. The German Government had admitted liability for the damages resulting from the sinking of the vessel and had suggested submission to a prize court of the legality of the capture and destruction, the standing of the claimants, and the amount of indemnity.

Secretary Bryan stated in a note of April 28 that submission of these questions to a prize court would be "inappropriate" and would involve unnecessary delay.¹⁹ As the liability of the German Government had been admitted, the standing of the claimants and the amount of indemnity were the only remaining questions to be settled. The Secretary considered it appropriate that these two questions should be settled by diplomatic negotiation.

The German Government replied that the provisions of article 13 of the treaty of 1799 between the United States and Prussia justified the German commander in sinking the *Frye*, although making the German Government liable for the damages suffered in conse-

¹⁶ Document 131.

¹⁷ Document 209.

¹⁸ Document 60.

¹⁹ Document 71.

quence; that as the treaty provided no specific method for ascertaining the amount of indemnity to be paid, the question must be submitted to a German prize court for determination.

Secretary Lansing stated on June 24 that these treaty provisions did not appear to justify the sinking of the vessel.²⁰ The following provision of article 13 appeared to him to prohibit even the detention of a neutral vessel carrying contraband if the master was willing to surrender the contraband: "if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage."

The Secretary considered it clear that whether the cargo was regarded as contraband or non-contraband, the destruction of the vessel was unjustified. If it was assumed that the cargo was contraband, the master of the *Frye* should have been allowed to "deliver out the goods", and the vessel should have been allowed to proceed; if it was assumed that the cargo was non-contraband, the destruction either of the cargo or vessel could not be justified under international law.

Secretary Lansing disagreed with the German contention that an American vessel carrying contraband might be destroyed without liability or accountability beyond the payment of such compensation for damages as might be fixed by a German prize court. As the issue thus presented arose over a disputed interpretation of treaty provisions, he stated, the settlement could not properly be based upon the decision of the German prize court, which was not binding upon the United States. The claim presented by the United States was "for an indemnity for a violation of a treaty, in distinction from an indemnity in accordance with the treaty, and therefore is a matter for adjustment by direct diplomatic discussion".

The United States was informed by a German note of July 30, that the case had been submitted to a prize court which had held that the sinking of the *Frye* was justified but that the German Government was liable for indemnity. The German Government suggested that each of the Governments designate an expert and that the two experts jointly fix the amount of indemnity. This suggestion was made with the reservation that a payment would not constitute an admission that American treaty rights had been violated.

Secretary of State Lansing replied on August 10, 1915, that a payment on this understanding would be acceptable, provided that it should not prejudice the American contention that the sinking of the *Frye* was without legal justification, and provided also that an ar-

²⁰ Document 98.

rangement could be agreed upon for the immediate submission to arbitration of the question of legal justification.²¹ Pending the arbitral award, he stated that it would be necessary to determine whether the German Government should govern its naval operations in accordance with its own interpretation or in accordance with the interpretation maintained by the United States.

The German Government soon expressed a willingness to refer to arbitration the question of interpretation of treaty rights. It stated that the German naval forces had been ordered not to destroy American merchantmen carrying conditional contraband, but to permit them to continue their voyage unhindered if it was not possible to take them into port. However, the German Government reserved the right to destroy vessels carrying absolute contraband whenever destruction was permissible according to the Declaration of London.

Secretary Lansing replied on October 12 that, pending the arbitral award, the United States would accept the Declaration of London as the rule governing Germany's conduct toward American vessels carrying cargoes of absolute contraband. This acceptance was on the understanding that the requirement that before a vessel was destroyed "all persons on board must be placed in safety", was not satisfied by merely giving them an opportunity to escape in lifeboats.²²

The question of treaty interpretation has not been arbitrated but the amount of indemnity due from Germany was decided in 1926 by the Mixed Claims Commission, United States and Germany.

SALE OF MUNITIONS TO BELLIGERENTS

The Department of State announced on October 15, 1914, that citizens of the United States were not prohibited by statute, by international law, or by treaty from selling any articles of commerce to a belligerent government.²³ The articles sold might be exclusively for war purposes, such as firearms and explosives, or foodstuffs and clothing for the armed forces of the belligerent. Although these articles were considered contraband and were subject to seizure by an enemy of the purchasing government, the Department stated that it was the enemy's duty to prevent the articles from reaching their destination. If the enemy should be "unable to do this that is for him one of the misfortunes of war; the inability, however, imposes on the neutral government no obligation to prevent the sale".

²¹ Document 112.

²² Document 130.

²³ Document 20.

On December 11, the Department instructed the diplomatic and consular officers of the United States that they should not extend to American citizens or others, assistance which would facilitate trade in articles declared contraband by any belligerent.²⁴ However, they were to "render all proper assistance to American citizens seeking to enlarge their trade" in articles declared conditional contraband, except when the destination of the articles gave them the character of contraband.

On January 20, 1915, the Secretary of State held that the duty of a neutral to restrict trade in munitions had never been imposed by international law or by municipal statute.²⁵ Three months later, he informed the German Ambassador that the placing of an embargo on the "trade in arms" would be a direct violation of the neutrality of the United States, as it would unequally affect the relations of the United States with the belligerents.²⁶

In a communication of June 29, 1915, the Austro-Hungarian Government urged that the United States should adopt measures to "maintain an attitude of strict parity with respect to both belligerent parties", in regard to the exportation of munitions.²⁷

Secretary Lansing stated to the President that although this communication could be merely acknowledged, it offered an excellent opportunity to make to the American people a convincing statement of the attitude of their Government.²⁸ A reply would be addressed to Vienna, but home consumption would be the real purpose. He was convinced of the strength of the position of the Government and of the desirability of making a frank public statement in order to remove the opposition to sales of munitions.

The Secretary reiterated these opinions on August 2 when he sent to the President a draft of reply to the Austro-Hungarian Government.²⁹ He urged a speedy transmission of the reply, believing that it would have a beneficial effect upon public opinion. It was "our first opportunity to present in a popular way the reasons why we should not restrict the exportation of munitions of war". He mentioned that meetings were being held looking to the imposition of an embargo on arms and ammunition; and that propaganda being conducted on the subject might become embarrassing to the Government.

President Wilson was anxious that the American reply should not be considered "an argument in sympathy with the Allies and against

²⁴ Document 38.

²⁵ Document 44.

²⁶ Document 68.

²⁷ Document 99.

²⁸ Document 100.

²⁹ Document 109.

militarism, which is Germany".³⁰ Also, he did not desire it to affect the plan of the United States to urge government control of the manufacture of arms and ammunition in Latin America, and possibly also in Europe at the final peace settlement.

To meet the first point a paragraph was inserted in the note to the effect that the United States had "no thought of expressing or implying any judgment with regard to the circumstances of the present war". With regard to the second, the Secretary expressed the belief that his argument would not seriously affect the program for government control of arms and ammunition.³¹

In the communication to the Austro-Hungarian Government, sent on August 12, Secretary Lansing declared that the United States could not accede to Austria-Hungary's "assertion of an obligation to change or modify the rules of international usage".³² He stated that although the principle urged by the Austro-Hungarian Government related only to arms and ammunition, if this principle were sound, it should apply to all articles of contraband. A belligerent controlling the high seas might possess an ample supply of arms and ammunition but be in want of food and clothing. On the "novel principle" that equalization was a neutral duty, neutral nations would be obligated to place an embargo on these articles because one of the belligerents could not obtain them through commercial intercourse.

The Secretary mentioned that during the years preceding the war, Austria-Hungary and Germany had sold arms and ammunition to belligerents. Therefore, he believed that the United States could not be considered unneutral in continuing its legitimate trade in war supplies, even though the circumstances of war prevented Austria-Hungary from obtaining them from the American markets which were open to all belligerents alike, so far as the action and policy of the United States were concerned.

In addition to the question of principle, there was a "practical and substantial reason" why the United States had always advocated and practiced unrestricted trade in military supplies. The policy of the United States, the Secretary stated, had never been to maintain in time of peace a large military establishment or stores of arms and ammunition. Consequently, in the event of attack by a foreign power, the United States would be seriously embarrassed at the beginning of the war by the lack of arms and ammunition or the means to produce them. The United States had always claimed the right to purchase arms and ammunition from neutral

³⁰ Document 110.

³¹ Document 111.

³² Document 113.

nations in case of foreign attack, and it could not deny this right to others.

Secretary Lansing stated that if there should be a general adoption of the theory that neutral powers ought to prohibit the sale of munitions to belligerents, every nation would be compelled to maintain manufacturing establishments sufficient to supply its military and naval needs throughout a war. Every nation would become "an armed camp, ready to resist aggression and tempted to employ force in asserting its rights". As the principle would inevitably work to the advantage of the belligerent which in time of peace accumulated vast stores of arms and ammunition, he was convinced that its adoption would force militarism on the world.

The Secretary concluded that the principles of international law, the practice of nations, the national safety of the United States, the prevention of increased armies and navies, the adoption of peaceful methods for the adjustment of international differences, and finally, neutrality itself were opposed to the prohibition by neutrals of the exportation of arms and ammunition to belligerent powers during the progress of the war.

On September 16, 1915, Secretary Lansing made a brief report on the practice of other nations in regard to the sale of munitions.³³ He stated that during the existing war Brazil, China, Denmark, the Netherlands, Norway, Spain, and Sweden had prohibited the exportation of munitions. The Secretary had been unable to ascertain whether the real ground for the embargoes was to conserve supplies, to avoid enmity of belligerents, to retaliate against "some vexatious measure of the belligerents", or to maintain a strict neutrality.

Eleven months later, the Department of State reiterated its position that no obligation rested upon the United States to prevent all trade in contraband; that it would be unneutral for the United States to adopt such a policy.³⁴

³³ Document 127.

³⁴ Document 200.

CHAPTER IV

LOANS AND CREDITS TO BELLIGERENTS

STATEMENTS ON LOANS, AUGUST 1914

Secretary of State Bryan informed President Wilson on August 10, 1914, that J. P. Morgan and Company had asked whether there would be any objection to their making a loan to the French Government.¹ Although there appeared to be no legal objection to such a loan, Secretary Bryan suggested that for the following reasons the Government should not approve of loans to belligerent nations:

1. "Money is the worst of all contrabands because it commands everything else." The refusal of the United States to loan to belligerents would tend to hasten a conclusion of the war.

2. A loan would be taken by those in sympathy with the country in whose behalf the loan was negotiated, with the result that the citizens of the United States would be divided into groups. This situation would be "disturbing" as each group would be "pecuniarily interested in the success of the nation to whom its members had loaned money."

3. The financial interests concerned with these loans would be tempted to use their influence through the newspapers to support the government to which they had loaned, since the value of the security would be directly affected by the result of the war. American newspapers would be violently arrayed on one side or the other. This influence would make it "all the more difficult for us to maintain neutrality."

4. An American citizen who went abroad and voluntarily enlisted in the army of a belligerent nation lost the protection of his citizenship while so engaged. Why should there be more protection for "dollars, going abroad and enlisting in war?" Although the Government could not "prevent dollars going abroad at the risk of the owners," would not the Government be justified "in using its influence against the enlistment of the nation's dollars in a foreign war?"

On August 15, Secretary Bryan informed J. P. Morgan and Company that "loans by American bankers to any foreign nation which is at war are inconsistent with the true spirit of neutrality."²

¹ Document 7.

² Document 10.

CREDIT ARRANGEMENTS

The Department of State announced on October 15, 1914, that the President possessed no legal authority to interfere in any way with trade between the people of the United States and the territory of a belligerent.³ One week later, President Wilson gave orally to Acting Secretary of State Lansing, his views "concerning bank credits of belligerent governments in contradistinction to a public loan floated in this country."⁴ The Acting Secretary was authorized to give his impressions of these views to persons entitled to hear them, upon the understanding that he had no authority to speak for the Government. His "impressions" of the President's views were as follows:

1. There was a "decided difference between an issue of Government bonds, which are sold in open market to investors, and an arrangement for easy exchange in meeting debts incurred in trade between a government and American merchants." The purchasers of bonds were loaning their savings to a belligerent government and were, "in fact, financing the war."

2. The acceptance of evidences of debt in payment for articles purchased in the United States was merely a means of facilitating trade by a system of credits which would "avoid the clumsy and impractical method of cash payments." As trade with belligerents was legitimate and proper, it was desirable to remove obstacles such as interference with an arrangement of credits.

3. The question of such an arrangement "ought not to be submitted to this Government for its opinion, since it has given its views on loans in general, although an arrangement as to credits has to do with a commercial debt rather than with a loan of money."

In his letter to Senator Stone, January 20, 1915, Secretary Bryan explained the difference between war loans and the purchase of arms and ammunition.⁵ The disapproval of war loans was not an unneutral act, as it affected all governments alike, but the prohibition of the export of arms and ammunition "would not operate equally upon the nations at war." The Secretary believed that a war loan offered for popular subscription in the United States would be taken chiefly by those in sympathy with the belligerent obtaining the loan. With a material interest in the success of the belligerent whose bonds they held, the American people might become more earnest partisans in the war. On the other hand, Secretary Bryan stated, contracts for and sales of contraband were mere matters of trade; no "general spirit of partisanship is aroused—no sympathies excited."

³ Document 20.

⁴ Document 27.

⁵ Document 44.

Two months later, the Department of State announced that it had been informed of arrangements for credits which belligerent nations had made with banks in the United States.⁶ While loans to belligerents had been disapproved, the Government had not felt justified in "interposing objection to the credit arrangements which have been brought to its attention." The Government had neither approved nor disapproved these arrangements, it had "simply taken no action in the premises and expressed no opinion."

ANGLO-FRENCH LOAN OF 1915

In August 1915, it was decided that an Anglo-French commission should be sent to the United States to negotiate for a loan. During that month a Chicago banker asked what would be the attitude of the Government toward "the flotation of a large British loan" in the United States.

The Secretary of the Treasury commented on the subject in a letter of August 23 to the Secretary of State.⁷ He felt that the foreign exchange situation was so serious that it might become imperative for some of the foreign governments to establish credits in the United States in order that they might continue their purchases of supplies. The attitude of the Government as expressed in Secretary Bryan's letter of January 20, he stated, might "seriously embarrass" the creation of the necessary credits. Secretary McAdoo mentioned that Germany had disregarded this letter and had "placed more than ten million of short time notes in this country." Finally, he expressed the opinion that it seemed entirely inconsistent for the Government to hold that the purchase of supplies by foreign governments was lawful and to be encouraged, and then to "discourage and discountenance as being unneutral the credit operations which are an essential part of such transactions."

Secretary of State Lansing referred to President Wilson the inquiry of the Chicago banker, with the comment that "conditions have materially changed since last autumn when we endeavored to discourage the flotation of any general loan by a belligerent."⁸ The President replied on August 26 that the Government "would take no action either for or against such a transaction."⁹ However, "this should be orally conveyed, so far as we are concerned, and not put in writing."

Secretary Lansing considered the subject of loans to belligerent nations in a long letter of September 6 to the President.¹⁰ He

⁶ Document 59.

⁷ Document 114.

⁸ Document 116.

⁹ Document 117.

¹⁰ Document 120.

mentioned that for 1915 the excess of American exports over imports would be about \$2,500,000,000. If the European banks should withdraw any considerable amount of the gold in their vaults, he believed that the credit of the European nations would be disastrously affected. Furthermore, if these nations could not find means to pay for the excess of goods sold to them over those purchased from them, they would have to stop buying and the export trade of the United States would shrink proportionately. The result, according to the Secretary, would be "restriction of outputs, industrial depression, idle capital and idle labor, numerous failures, financial demoralization, and general unrest and suffering among the laboring classes."

Secretary Lansing believed that the means of avoiding this situation was the flotation of large bond issues by the belligerent governments. Financial institutions of the United States, he stated, had money which they wished to loan and the proceeds of these loans would be expended in the United States. The result would be "a continuance of our commerce at its present volume and industrial activity with the consequent employment of capital and labor and national prosperity."

The Secretary mentioned that the difficult aspect of the situation was the 1914 statement that loans by American bankers to belligerents would be inconsistent with the true spirit of neutrality. However, popular sympathy had become crystallized in favor of one or another of the belligerents to "such an extent that the purchase of bonds would in no way increase the bitterness of partisanship." He expressed the opinion that the Government ought to allow the loans to be made "for our own good."

President Wilson and Secretary Lansing discussed the situation on the following day. Although no record has been found of the results of this conference, it may be assumed that the decision was in accordance with that outlined in the President's letter of August 26. Shortly thereafter an Anglo-French loan of \$500,000,000 was consummated.

RUSSIAN LOAN OF 1916

Ambassador Francis in Russia reported to the Department of State in a despatch of May 20, 1916, that the Russian Government was negotiating with American banking firms for a loan of \$50,000,000.¹¹ He stated that he was rendering all the assistance he "consistently" could toward the consummation of this loan, as he thought it would have a very beneficial effect on the diplomatic and commercial relations between the United States and Russia.

¹¹ Document 194.

Before this despatch reached the United States, the Ambassador cabled two private messages in regard to the proposed loan, with the expectation that the Department of State would forward the messages to their destination. The Ambassador was informed, however, that the Department could not participate in the transmission of messages referring to a Russian Government loan; participation would be contrary to the accepted rule of international law "that neutral governments should not lend their assistance to the raising of war loans by belligerents."¹²

The Ambassador reported that most of the loan was to be used for paying indebtedness already incurred for non-contraband commodities. The loan was consummated on June 18. On the following day the Ambassador informed the Department that the "Embassy had no participation in negotiation but I am personally glad loan was effected."¹³

STATEMENT ON LOANS, AUGUST 18, 1916

In a letter of August 18, 1916, the Department of State mentioned the announcement made at the beginning of the war that in the judgment of the Government, loans by American bankers to any belligerent nation were inconsistent with the true spirit of neutrality.¹⁴ While expressing its position with regard to these loans, "there was no way in which the Government could prevent private loans being made to the belligerents." Such loans violated no law of the United States and there was no way in which those making the loans could be prosecuted. The Government had "in no way facilitated or encouraged any loans that may have been made."

FEDERAL RESERVE BOARD STATEMENT, NOVEMBER 28, 1916

The Federal Reserve Board issued a statement on November 28, 1916, that the investment by member banks in treasury bills of foreign governments was not then regarded "in the interest of the country."¹⁵ The Board believed that the banks should remain liquid in order to respond to domestic requirements; that they "should proceed with much caution in locking up their funds in long term obligations or in investments, which are short term in form or name but which, either by contract or through force of circumstances, may in the aggregate have to be renewed until normal conditions return."

¹² Document 196.

¹³ Document 197.

¹⁴ Document 200.

¹⁵ Document 212.

TELEGRAM FROM AMBASSADOR PAGE, MARCH 5, 1917

Ambassador Page in Great Britain reported on March 5, 1917, that unless the Allies obtained credit in the United States there would be "almost a cessation of transatlantic trade."¹⁶ He believed that the need was becoming too great to be met by any private financial agency, and inquired whether the American Government "might indirectly, immediately, help the establishment in the United States of a large Franco-British credit without a violation of armed neutrality." During the remaining weeks of the neutrality of the United States, Ambassador Page pressed for a reply to this telegram. However, none was sent.

FEDERAL RESERVE BOARD STATEMENT, MARCH 8, 1917

On March 8, 1917, the Federal Reserve Board announced that the statement of November 28, 1916, was not intended to create an unfavorable attitude on the part of American investors toward desirable foreign securities.¹⁷ The Board expressed the belief that banks might advantageously invest a reasonable amount of their resources in foreign securities if this did not interfere with their liquid condition. The Board emphasized the point that "American funds available for investment may, with advantage to the country's foreign trade and the domestic economic situation, be employed in the purchase of such securities."

¹⁶ Document 234.

¹⁷ Document 236.

CHAPTER V

WAR ZONES, SUBMARINES, AND ARMED MERCHANT SHIPS

MINE-LAYING BY BELLIGERENTS, 1914

The German Foreign Office notified the American Embassy at Berlin, on August 7, 1914, that during the war "the necessity will arise, according to prospects, of blockading with mines the points of departure for attacks on the part of hostile fleets against Germany, and the ports of shipment, departing and arriving, of troop transports". The Embassy was requested to inform the Government of the United States of this notice in order that shipping might be warned against entering harbors and roadsteads which might serve as bases for hostile forces.

Ambassador Gerard cabled a summary of the German announcement which reached the Department of State on August 9. This summary, which was inaccurate, read as follows: "Foreign Office informs me German ports strewn with mines and requests that shippers be warned in time against navigating in ports which might serve as bases for foreign forces."¹

On August 11, the British Chargé d'Affaires informed Secretary of State Bryan that Germany was "scattering contact mines indiscriminately" in the open waters of the North Sea, and that the British Admiralty held themselves at liberty to adopt similar measures in self-defense.

Secretary Bryan replied to the Chargé on August 13.² The Secretary was "loath to believe" that a signatory to the Hague Convention of 1907 relating to the laying of automatic submarine contact mines, would disregard the provision that mines should become harmless within one hour after being laid. He held that belligerents should prevent their operations from increasing the hazard to neutral ships in the open sea "so far as the exigencies of the war permit". If Germany had endangered neutral commerce by an act which violated the Hague Convention and which could not be justified on the ground of military necessity, he saw no reason for Great Britain's adopting a similar course. Secretary Bryan expressed the hope that the British Government might not feel com-

¹ Document 5.

² Document 8.

pelled to resort to a method of naval warfare which appeared contrary to the terms of the Hague Convention and which would needlessly menace the ships and lives of neutrals.

The British Chargé replied that Great Britain did not hold that the German mine-laying activities violated the Hague Convention, "but that does not make them less dangerous to merchant shipping". Germany stated later that the Hague Convention had not been ratified by Russia and was therefore not binding on any of the belligerents.

Great Britain announced on October 2 that German mine-laying and submarine activities made necessary the adoption of counter measures. The British Admiralty stated that it would be "dangerous henceforward" for ships to traverse a delimited area, which extended across the east entrance to the English Channel, and that British ships had been instructed to warn eastbound vessels of the presence of this minefield. In a press release of the following day, the Department of State called attention to the minefield and to the warning which would be given by British ships.³

One month later, November 3, the British Admiralty announced that during the previous week Germany had scattered mines indiscriminately in the North Sea and that the Admiralty felt "it necessary to adopt exceptional measures."⁴ They therefore gave notice that the entire North Sea must be considered a "military area" within which all ships would be exposed to dangers from mines, which it had been necessary to lay, and from warships searching for suspicious craft. After November 5 all ships entering the area would do so "at their own peril".

The Secretary of State was informed that Norway had protested to Great Britain against this announcement and that Denmark and Sweden would also protest. Norway hoped for the support of the United States, but Secretary Bryan stated on November 10 that the Government did not "see its way at the present time" to join with other governments in protesting to Great Britain.⁵

The United States did not make a further statement during 1914 with regard to its position on mine-laying activities of belligerents. In February 1915, Secretary of State Bryan suggested that the belligerents should agree to certain restrictions in the use of mines.⁶ In 1916 the Department of State held that the "illegal use of mines" had not been confined to any one belligerent; both sides had violated the rights of neutrals and had "sown large areas of the high seas with mines."⁷

³ Document 18.

⁴ Document 31.

⁵ Document 34.

⁶ See p. 16.

⁷ Document 200.

GERMAN AREA OF WAR, 1915

The German Government stated in a memorandum of February 4, 1915, that just as Great Britain had designated the waters between Scotland and Norway as an area of war, so Germany now declared as an area of war, the waters surrounding Great Britain and Ireland; that beginning on February 18, Germany would endeavor to destroy every enemy merchant ship found in this area; and that neutral ships should avoid entering this area because, in view of the misuse of neutral flags by the British Government and of the contingencies of naval warfare, they might become victims of torpedoes directed against enemy ships.⁷

Secretary of State Bryan considered this declaration in a note of February 10.⁸ He reminded the German Government that the sole right of a belligerent in dealing with neutral vessels on the high seas was limited to visit and search, unless a blockade was proclaimed and effectively maintained. The attack and destruction of a vessel entering a prescribed area of the high seas without its belligerent nationality and the contraband character of its cargo being first certainly determined, would be an act "unprecedented in naval warfare". The suspicion that enemy ships were using neutral flags improperly, he stated, could not create a just presumption that all ships traversing a prescribed area were subject to the same suspicion.

Secretary Bryan stated that if Germany should act upon the presumption that the American flag was not being used in good faith and should destroy on the high seas an American vessel or the lives of American citizens, the United States would be inclined to consider the act an "indefensible violation" of neutral rights. If this situation should arise, the United States would hold Germany to a "strict accountability" for the act and take any steps necessary to safeguard American lives and property.

On this same date representations were made to Great Britain regarding the use of the American flag for the protection of British ships. Secretary Byran stated that according to the German declaration the British Government had explicitly authorized the use of neutral flags on British merchant vessels presumably for the purpose of avoiding recognition by German naval forces.⁹ Reserving for future consideration the legality and propriety of the deceptive use of a neutral flag for the purpose of avoiding capture, the Secretary desired to point out that this practice might result in serious consequences to American vessels and American citizens. The occa-

⁷ Document 48.

⁸ Document 49.

⁹ Document 50.

sional use of the flag of a neutral or an enemy under the stress of immediate pursuit and to deceive an approaching enemy, seemed to him different from an explicit sanction by a belligerent government for its merchant ships generally to fly the flag of a neutral power within portions of the high seas presumed to be frequented by hostile warships. The formal declaration of a policy of general misuse of a neutral flag jeopardized "in a peculiar degree" the neutral vessels visiting those waters by raising the presumption that they were of belligerent nationality.

In view of Germany's plan to engage in active naval operations in the waters surrounding Great Britain and Ireland, the Secretary would view with "anxious solicitude" any general use of the American flag by British vessels traversing those waters. This practice would greatly endanger American vessels and "would even seem to impose upon the Government of Great Britain a measure of responsibility for the loss of American lives and vessels in case of an attack by a German naval force."

Ten days later, February 20, the Secretary of State proposed to the Governments of Great Britain and Germany that they should require their respective merchant vessels not to use neutral flags for the purpose of disguise; that they should not use submarines to attack merchant vessels of any nationality except to enforce the right of visit and search; and that they should agree to certain restrictions with regard to the use of mines.¹⁰ These proposals, made in connection with a suggested arrangement for supplying the civil population of Germany with food, were not accepted.

THE "FALABA"

Ambassador Page in Great Britain cabled on April 1, 1915, that an American citizen was reported to have been drowned when the British ship *Falaba* was sunk by a German submarine in the zone delimited by the German memorandum of February 4. This case was discussed by Counselor Lansing in a letter of April 2, to Secretary Bryan.¹¹ The Counselor considered unwarranted the sinking of an unresisting vessel without giving those on board adequate time to escape. He held that an American citizen taking passage on a belligerent merchant vessel was "entitled to rely upon an enemy's war vessel conforming to the established rules of visit and search and of protection of non-combatants." However, to enter a complaint on account of the death of an American in this instance would be to denounce the German war zone plan.

¹⁰ See p. 16.

¹¹ Document 61.

In a letter of the same date to the President, Secretary Bryan expressed the opinion that an American citizen who took passage on a British vessel knowing that this method of warfare would be employed, was "in a different position from that occupied by one who suffers without any fault of his own."¹⁰ He felt that the United States could hardly insist that the presence of an American on a British ship should operate to prevent attack unless the Government was prepared to condemn as improper the methods employed.

The President replied that this American met death as a result of acts on the part of German naval officers which clearly violated the rules of international law.¹¹ He considered it "probably" the duty of the Government to make clear to Germany that American citizens should not be endangered by actions which were not sanctioned by the accepted law of nations.

On April 3 the Secretary sent President Wilson a memorandum which Mr. Lansing had prepared six weeks earlier, in which the Counselor held that the advantages to Germany of war with the United States appeared "to outweigh the disadvantages."¹² The President appreciated the force of the memorandum but thought it should not alter the course of the United States in the *Falaba* case, "so long as we think ourselves on the firm ground of right."¹³

Two days later Counselor Lansing prepared a draft note to Germany in language "plain almost to harshness."¹⁴ If the sinking of the *Falaba* was to be denounced as an indefensible act, he did not see how this could be done in a pleasant way. He felt that the United States must condemn the violation of rights and state what remedy was expected; American public opinion would "never stand for a colorless or timid presentation." The Counselor considered this case "pregnant with more sinister possibilities than any with which the Government has had to deal."

In a letter of April 7 to Secretary Bryan, Mr. Lansing held that the Government must either warn Americans not to traverse the war zone in foreign merchant vessels, or hold Germany to a strict accountability for every American life lost on the high seas by submarine attack.¹⁵ He felt that "the dignity of the Government and its duty toward its citizens" appeared to demand a policy in accord with the second course.

¹⁰ Document 62.

¹¹ Document 63.

¹² Document 64.

¹³ Document 65.

¹⁴ Document 66.

¹⁵ Document 67.

President Wilson discussed the *Falaba* case in a letter of April 22 to the Secretary of State.¹⁶ The President proposed that a note to the German Government should be placed "on very high grounds", not on the loss of life of one American citizen. The emphasis should be placed on the interests of mankind, on the "manifest impropriety of a single nation's essaying to alter the understandings of nations", and on Germany's mistake in using an instrument which could not be used in accordance with any acceptable rules.

On May 1, Counselor Lansing called to the attention of Secretary Bryan the attack by a German aeroplane on the American steamship *Cushing*.¹⁷ While no lives were lost, the vessel was reported to be considerably damaged. Mr. Lansing did not consider the case so serious as the attack on the *Falaba*, but he believed it to be a more flagrant violation of neutral rights. Furthermore, it indicated that the German naval policy was "one of wanton and indiscriminate destruction of vessels regardless of nationality." The Counselor also called attention to the publication in morning newspapers of May 1 of the following paid advertisement which had been prepared on April 22 by the German Embassy:

"Travellers intending to embark on the Atlantic voyage are reminded that a state of war exists between Germany and her allies and Great Britain and her allies; that the zone of war includes the waters adjacent to the British Isles; that in accordance with formal notice given by the Imperial Government, vessels flying the flag of Great Britain or any of her allies, are liable to destruction in those waters and that travellers sailing in the war zone on ships of Great Britain or her allies do so at their own risk."

Mr. Lansing considered this notice a formal threat that American citizens on British ships would not be given ample opportunity to escape when the ships were attacked. Also, he felt that the use of the American press to warn Americans not to exercise their legal rights was "highly improper."

In a letter of May 3 to Secretary Bryan, Counselor Lansing mentioned that three lives were reported lost as a result of the torpedoing of the American steamship *Gulflight*.¹⁸ If the attacks on the *Gulflight* and the *Cushing* were confirmed officially, he believed that the Government should make a vigorous protest. He felt that the United States was "being forced near to the breaking point" in relations with Germany. Two days later the Counselor informed the Secretary that he had reread the American note of February 10¹⁹ to

¹⁶ Document 69.

¹⁷ Document 72.

¹⁸ Document 73.

¹⁹ See p. 52.

determine how far a course of action was declared in case of submarine attack.¹⁰ He believed that the expression "indefensible violation" eliminated any argument as to the justification of German authorities for attacking American vessels without warning. The expression "strict accountability" meant that the German Government "must make full reparation for the act of their naval force and must also repudiate the act, apologize for it, and give ample assurance that it will not be repeated." He believed that the expression "steps . . . necessary . . . to safeguard" meant to protect American lives and property by force unless the German Government guaranteed that American lives and property on the high seas would not be molested.

THE "LUSITANIA" AND THE "ARABIC"

One hundred twenty-eight American citizens lost their lives on May 7, 1915, when the British steamship *Lusitania* was sunk without warning by a German submarine off the coast of Ireland. This vessel was not armed when it left New York, according to the Treasury Department. Practically all of its cargo was contraband.¹¹

Ambassador Page in Great Britain reported on May 8, the unofficial British opinion that the United States "must declare war or forfeit European respect."¹² By submitting to Germany's disregard of lives and property, the United States would have "no voice or influence in settling the war nor in what follows for a long time to come." President Wilson observed in a letter to Secretary Bryan that the cable expressed what was considered to be public opinion at the time in Great Britain.¹³ He believed it a "very serious thing to have such things thought, because everything that affects the opinion of the world regarding us affects our influence for good." Although in this cable Ambassador Page reported what he had heard unofficially concerning the terms of the secret treaty of London, the President did not comment on them.

In discussing the *Lusitania* incident, Secretary Bryan suggested the proposition that Americans who took passage on a British vessel destined to pass through the German war zone did so in a measure at their own peril, and were not entitled to the full protection of the Government. This proposition was considered by Counselor Lansing in a letter of May 9.¹⁴ He called attention to the Government's declaration of February 10 that it would hold Germany to a strict accountability for the loss of American lives and property within

¹⁰ Document 74.

¹¹ Document 75.

¹² Document 76.

¹³ Document 79.

¹⁴ Document 77.

the war zone.¹⁵ The Government had not discriminated "as to the vessels carrying American citizens and property." If the Government had intended to discriminate, he stated, it should have issued a public warning to American citizens to keep off British ships. However, the Government had permitted in silence hundreds of American citizens to travel by British steamships crossing the war zone and by this silence had allowed them to believe that the Government approved and would support them in case their legal rights were invaded. It had "continued silent" even when the German Embassy published a warning just before the *Lusitania* sailed.

These views were sent to President Wilson.¹⁶ He considered the Counselor's argument "unanswerable."¹⁷ Even if it were right to take the position "that a warning that an unlawful and outrageous thing would be done might operate as an exemption from responsibility on the part of those who issued it", the President considered it too late to take that position. "We defined our position at the outset and cannot alter it—at any rate so far as it affects the past."

On May 10 Secretary Bryan forwarded to the President a letter containing Counselor Lansing's suggestions regarding procedure to be followed by the Government in the *Lusitania* case¹⁸: (1) a protest against the torpedoing without warning of an unarmed passenger ship on the high seas; (2) a declaration that this action violated the rules of international law and the principles of humanity; (3) a reaffirmation of the "strict accountability" statement of February 10; (4) a demand that Germany disavow the act of the submarine commander, offer an apology, punish the guilty officer, promise to pay a just indemnity, and guarantee that in the future ample measures would be taken to insure the safety of American citizens on the high seas.¹⁹

If Germany refused to comply with these demands, the Counselor stated that two courses of action were open. The United States could sever diplomatic relations with Germany. Or the United States and other neutral powers could send identic notes to Germany and also to Great Britain protesting against the violations of international law with which each was charged, the protest to Germany covering breaches of "inhumanity" as well as of international law. These two courses of action were amplified a week later by the Counselor in a letter to the President.²⁰

On May 10 the Secretary also sent the President a memorandum by the Counselor in regard to possible German defenses for the

¹⁵ See p. 52.

¹⁶ Document 78.

¹⁷ Document 83.

¹⁸ Document 82.

¹⁹ Document 81.

²⁰ Document 87.

sinking of the *Lusitania*.²⁰ The Counselor stated that the presence of munitions in the cargo did not in itself relieve the German naval authorities from stopping the vessel and permitting those on board to take to the boats before the torpedo was launched. Furthermore, Germany could not avoid responsibility by claiming that the vessel was armed as it had means of obtaining information showing that the vessel was not armed. Finally, the German Embassy's public warning to American citizens not to travel through the war zone on British vessels did not relieve the German Government of responsibility for committing an illegal and inhuman act.

The note to Germany was sent on May 13 by Secretary Bryan. He called attention to the notice already given that the United States could not admit that there should be any curtailment of American rights in the war zone proclaimed by Germany, and that it must hold Germany to a strict accountability for any infringement of those rights.²¹ The United States assumed, he continued, that Germany accepted the principle that the lives of noncombatants should not be jeopardized by the capture or destruction of an unarmed merchantman, and recognized also the obligation to visit and search a suspected merchant ship to determine whether it was of belligerent nationality or was carrying contraband of war under a neutral flag.

Secretary Bryan considered apparent that submarines could not be used against merchant ships without "an inevitable violation of many sacred principles of justice and humanity", as it was practically impossible for the officers of a submarine to visit a merchantman at sea and examine its papers and cargo. Furthermore, it was not practicable for them to place a prize crew on the merchant ship, and they could not sink it without leaving the passengers and crew in small boats to the mercy of the sea.

He mentioned that the German Embassy at Washington had published a formal warning that American citizens who traveled through the war zone, would do so at their own peril. No warning that an unlawful and inhuman act would be committed, he held, could be accepted as an excuse for the act or as an abatement of the responsibility for its commission.

Finally, the Secretary expected the German Government to disavow the act of the submarine commander in sinking the *Lusitania*, to make reparation so far as reparation was possible for injuries which were without measure, and to take immediate steps "to prevent the recurrence of anything so obviously subversive of the principles of warfare" for which Germany had "in the past so wisely and so firmly contended."

²⁰ Document 80.

²¹ Document 81.

On May 14, Mr. Lansing, at the direction of the Secretary, drafted a notice for issuance by the President, requesting that American citizens intending to traverse the war zone should refrain from taking passage on belligerent vessels while the submarine controversy was pending.²² He explained to the Secretary that the notice must be in the form of a request, as there was no law by which American citizens could be restrained from traveling on belligerent vessels. Such a notice was not favored by the President, and none was issued.

Secretary Bryan informed the American Ambassador in Germany, May 23,²³ that Great Britain might be willing then to consider the American proposals of February 20²⁴ if Germany would renew them with the addition of a mutual agreement to discontinue the use of poisonous gases. The Ambassador was instructed to take up the matter with the German Foreign Office, and to state that the adoption by the belligerents of the proposals would "practically clear away the difficult questions" under discussion between the United States and Germany. He was to state also that the United States was conveying this information as the "sincere common friend" of Germany and Great Britain and "not as if we for a moment suggested a bargain or compromise with regard to our own rights".

Ambassador Gerard replied on May 25 that Germany was unable to accept a proposition that would not allow raw materials to enter Germany.²⁵ However, Germany would make an agreement on the following basis: (1) Germany and Great Britain should not use gases; (2) food, cotton, copper, rubber and such other raw materials as did not directly enter into the manufacture of munitions should be allowed to enter Germany; (3) Germany should stop torpedoing merchant vessels without notice; (4) Great Britain should not arm merchant vessels and should not permit them to ram submarines.

President Wilson then directed Ambassador Gerard to inform the German Government that the conditions prevailing in the war zone were rapidly becoming "intolerable" to the whole world; that although the United States had nothing to propose to the belligerents, it would gladly convey any proposals made by either Germany or Great Britain for the correction of existing dangerous conditions.²⁶

On this same date, May 27, Counselor Lansing urged upon the British Ambassador,²⁷ the acceptance of the American proposal of February 20.

²² Document 85.

²³ Document 88.

²⁴ See p. 16.

²⁵ Document 89.

²⁶ Document 91.

²⁷ See p. 20.

Germany replied on May 28, to the American note of May 13, contending that the *Lusitania* was armed, carried contraband of war, and was in effect serving as an auxiliary to the British naval forces.²⁸ The principles stated in the American note were not discussed. Counselor Lansing believed that Germany was endeavoring to draw the United States into a controversy over the facts and was avoiding the principles involved.²⁹ He felt that the reply showed "an inflexible purpose" to continue a course of action which the United States considered illegal and inhuman.

Mr. Lansing stated that the use of the term "unarmed" in the note of May 13 had caused Germany to build up an argument on the allegation that the *Lusitania* was armed.³⁰ He mentioned that it was entirely legal for a merchant vessel to carry a defensive armament without losing the character of a commercial vessel, and suggested that the term "unresisting" should be used in the discussion of attack without visit.

On June 4 the Collector of the Port of New York made a full report of the character and cargo of the *Lusitania*.³¹ (1) When the vessel left New York it had no guns "mounted or unmounted, masked or unmasked." (2) The vessel was built with provision for guns to make it readily adaptable to naval purposes if called by the British Admiralty. (3) It did not have any troops on board. (4) The vessel carried among the articles of its cargo, 4200 cases of metallic cartridges, 1250 cases of shrapnel, and 18 cases of fuses. There were no explosives "of any kind or character". However, it was "practically a physical impossibility" to examine the contents of each package placed on board an outgoing ship.

The second *Lusitania* note, cabled to the Ambassador in Germany on June 9, was signed by Robert Lansing, Secretary of State *ad interim*.³² In this note Secretary Lansing answered the German contention of May 28, that the vessel was in effect serving as an auxiliary to the British naval forces. He stated that it was the duty of the United States to see that the vessel was not armed for offensive action, that it was not serving as a transport, that it did not carry a cargo prohibited by the statutes of the United States, and that it should not receive clearance as a merchantman if it was in fact a British naval vessel. The United States had "performed that duty and enforced its statutes with scrupulous vigilance". German contentions regarding the carriage of contraband of war on board the *Lusitania*, he considered irrelevant to the question of the legality

²⁸ Document 93.

²⁹ Document 94.

³⁰ Document 95.

³¹ Document 96.

³² Document 97.

of the methods used by German naval authorities in sinking the vessel.

The Secretary emphasized that the *Lusitania* was primarily a conveyance for passengers and was carrying more than a thousand noncombatants when sunk without warning. Men, women, and children "were sent to their death in circumstances unparalleled in modern warfare". As more than one hundred American citizens were among those who perished, he believed the United States should reiterate its responsibility in this "tragic occurrence".

Secretary Lansing stated that the United States was contending for something greater than mere rights of property or privileges of commerce; it was contending for the rights of humanity. Only actual resistance to capture or refusal to stop when ordered to do so for the purpose of a visit could have justified the submarine commander in jeopardizing the lives of those on board the ship. The Secretary understood that this principle was recognized in German Admiralty instructions and in the naval codes of all other nations. Upon this principle every traveler and seaman had "a right to depend".

The Secretary "very earnestly and very solemnly" renewed the representations made in the note of May 13. He understood that Germany accepted the principle that the lives of noncombatants could not be jeopardized by the capture or destruction of an unresisting merchantman, and recognized also the obligation to visit and search a suspected merchant ship. He asked for assurances that Germany would put these principles into practice with respect to the safeguarding of American lives and American ships.

Germany replied on July 8 to this second American note on the *Lusitania* case.³³ A large part of the reply was devoted to an enumeration of British acts considered illegal by Germany. In considering what position should be taken in regard to the German communication, President Wilson stated on July 13 that two things were "plain to me, in themselves inconsistent". The people of the United States wanted the case handled in a way that would bring about a definite settlement without endless correspondence, and they expected the Government not to conduct the correspondence in such a way as to make inevitable "an unfriendly issue".³⁴ Secretary of State Lansing expressed the same feeling in letters of July 14³⁵ and 15³⁶ to the President.

The third *Lusitania* note was cabled to Germany by Secretary Lansing July 21, 1915.³⁷ He expressed gratification that Germany,

³³ Document 101.

³⁴ Document 102.

³⁵ Document 103.

³⁶ Document 106.

³⁷ Document 107.

in the note of July 8, had recognized the principles that the high seas were free; that the character and cargo of a merchantman must be ascertained before it could be lawfully seized and destroyed; and that the lives of noncombatants must not be jeopardized unless the vessel resisted or attempted to escape after being summoned to submit to examination. Secretary Lansing was disappointed, however, that the German Government felt largely exempt from the obligation to observe these principles because of the British treatment of neutral commerce. The conduct of other belligerents he considered irrelevant to the discussion with Germany of what the United States considered unjustified violations of the rights of its citizens.

The Secretary stated that a belligerent act of retaliation "is *per se* an act beyond the law, and the defense of an act as retaliatory is an admission that it is illegal". However justifiable illegal and inhuman acts might appear against an enemy, he considered such acts indefensible when they deprived neutrals of their acknowledged rights, particularly the right to life. If a belligerent could retaliate against an enemy only by injuring neutral lives as well as neutral property, the practice should be discontinued. A continuation would "constitute an unpardonable offense against the sovereignty of the neutral nation affected".

Secretary Lansing was aware of the alterations of circumstance and method of attack produced by the use of means of naval warfare unforeseen when the existing rules of international law were formulated. While willing to make allowance for new aspects of war at sea, he could not consent to abate any fundamental American right because of a mere change of circumstance. The rights of neutrals were based upon "immutable" principles, and belligerents were obliged to adapt the new circumstances to them. The events of the previous two months clearly indicated to the Secretary that submarine operations could be conducted in substantial accord with established rules of warfare. In view of the possibility of conforming to these rules, and in view of the admission of illegality made in pleading the right of retaliation, he believed that Germany would disavow the act of the naval commander in sinking the *Lusitania* and offer reparation for American lives lost.

Secretary Lansing stated that the United States and Germany were both contending for the freedom of the seas. The United States would continue to contend for that freedom, from whatever quarter violated, without compromise and at any cost, and it invited the cooperation of Germany. The Secretary urged upon the German Government the necessity for a scrupulous observance of American rights. Repetition by the commanders of German naval

vessels of acts in violation of those rights would be considered by the United States "as deliberately unfriendly."

Within one month after this note of July 21 was sent to Germany, American lives were lost when the British steamer *Arabic* was sunk without warning by a German submarine. This incident occurred August 19, 1915. On the 24th Secretary Lansing mentioned in a letter to the President "the danger of being involved in war with Germany in case we should sever diplomatic relations, which appears probable."³⁸ In this letter he considered the general effect of a state of war between the United States and Germany upon "the part we desire to play" in peace negotiations. He concluded that "our usefulness in the restoration of peace would certainly not be lessened by a state of war between this country and Germany, and it might even be increased." However, he felt that war would not arouse much enthusiasm in the United States. President Wilson replied on the following day that this letter "runs along very much the same lines as my own thought."

On August 27 the President commented on a message which the German Ambassador requested the Secretary of State to transmit by wireless to his Government. This message contained the suggestion that Germany should refrain from attacking passenger ships "without warning." The President stated that this expression would not be sufficient, that the following should be used instead: "without warning and provision for the safety of the lives of non-combatants."³⁹

The German Ambassador informed the Secretary of State, five days later, that instructions concerning his Government's answer to the American note of July 21 contained the following passage: "Liners will not be sunk by our submarines without warning and without safety of the lives of non-combatants, provided that the liners do not try to escape or offer resistance."⁴⁰

Ambassador Page reported on September 8 that the apparent acceptance of this assurance of the cessation of submarine attacks on passenger ships created a bad impression in Great Britain because the assurance was not "frank and specific."⁴¹ He also reported that the United States was "losing the fear and therefore the respect" of foreign governments and of foreign opinion. Furthermore, the United States was considered "as a more or less loose aggregation of different nationalities without national unity, national aims, or definite moral qualities".

³⁸ Document 115.

³⁹ Document 118.

⁴⁰ Document 119.

⁴¹ Document 122.

President Wilson observed in regard to this report that it was useful to be familiar with foreign opinion.⁴¹ He felt that eventually the British people would understand that "what we are guided by is our sense of what is just and right and not our sensibility as regards what other nations think about us."

During the *Arabic* negotiations the German Ambassador stated that the whole controversy between the United States and Germany turned on the subject of unarmed merchant vessels. President Wilson commented in regard to this statement that "my original error in speaking of 'unarmed' vessels when I should have said 'unresisting' is now rising up to embarrass us."⁴²

The German Government, in a note of September 7 on the *Arabic* case, did not acknowledge an obligation to grant indemnity on the account of the death of American citizens but offered to arbitrate the point.⁴³ Secretary Lansing pointed out to the German Ambassador on September 13, the "objectionable features which made it impossible to reply to the *Arabic* note in its present form."⁴⁴ He stated that the attack upon the vessel and Germany's unconditional support of the submarine commander rendered valueless the Ambassador's assurance of September 1. Furthermore, the assurance should be broadened to include all merchant vessels and not limited to passenger vessels. The Secretary told the Ambassador he could not discuss arbitration as the United States could not arbitrate justification of the submarine commander, and the only remaining question was the amount of indemnity. He expressed the opinion that Germany "should disavow the act of the officer, and then question of arbitration could be considered."

A second German note was received on October 5 stating that orders to submarine commanders had been made so stringent that the recurrence of incidents similar to the *Arabic* case was considered out of the question; that the attack on the *Arabic* was undertaken against instructions; and that the German Government regretted and disavowed the act. Furthermore, the Government was prepared to pay an indemnity for the loss of American lives.

The Secretary of State replied on the following day that he had "noted with satisfaction" the German assurances and that he was ready to negotiate concerning the amount of indemnity.⁴⁵

Four days earlier, October 2, Ambassador Bernstorff had submitted a tentative letter about the *Lusitania* incident, stating that the Ger-

⁴¹ Document 123.

⁴² Document 124.

⁴³ Document 121.

⁴⁴ Document 128.

⁴⁵ Document 129.

man Government did not acknowledge liability to grant an indemnity but was willing to submit the question to arbitration.⁴⁶ Secretary Lansing told the Ambassador, November 2, 1915, that this letter would be unacceptable.⁴⁷

The Secretary soon drew up a proposed "formula" for settling the *Lusitania* case.⁴⁸ According to it the German Government would declare illegal the act of the submarine commander, express regret that citizens of the United States had suffered, and offer to make reparation by the payment of a suitable indemnity. Secretary Lansing submitted this formula to the German Ambassador on November 17.⁴⁹ He expressed to the Ambassador the hope that the case could be settled before the assembling of Congress, as the "present resentment of public opinion in this country might cause a serious situation of affairs" and as it was even possible that Congress might declare war. The Secretary thought that the time was opportune for a settlement "on account of our recent note to Great Britain."⁵⁰

In a letter to the President, the Secretary discussed what course should be followed in case Germany failed to act promptly on the formula or refused to acknowledge liability for the loss of American lives.⁵¹ He believed that diplomatic relations should be severed or that "the facts" should be presented to Congress. Although he considered the first method less liable to commit the Government to drastic action, he believed that the second method would impress the public with the fact that the Administration desired Congress to determine a question which might precipitate war.

The President replied that the matter of the *Lusitania* was just as acute as it was when the vessel was sunk.⁵² He should regard a failure of Germany "to settle this question in the same frank way that the sinking of the *Arabic* was settled would be little less than a repudiation of the assurances then given us and seem to lead back to the very crisis in our relations that was then so happily avoided."

Ambassador Bernstorff wrote Secretary Lansing on November 25⁵³ that some months earlier he had talked with President Wilson in regard to the *Lusitania* case, and that the President "showed me a common ground on which we could meet, viz. his policy of the 'freedom of the seas'." Furthermore, the President had as-

⁴⁶ Document 132 (annex).

⁴⁷ Document 132.

⁴⁸ Document 134.

⁴⁹ Document 135.

⁵⁰ See p. 21.

⁵¹ Document 136.

⁵² Document 137.

⁵³ Document 138.

sured him that if Germany gave binding assurances for the future, "the past would cause no more friction."

The Ambassador stated that binding assurances had been given and had been adhered to. On the other hand, the enemies of Germany had increased "their illegal methods instead of relaxing them." Under these circumstances, the Ambassador felt that if the *Lusitania* case was now pressed too much the German Government might feel that the concessions made to the United States for the purpose of obtaining the common object of freedom of the seas was wrong, and that "it would be better to return to a policy of severe reprisals against Great Britain's illegal blockade."

AUSTRIA-HUNGARY AND THE "ANCONA"

A controversy arose between the United States and Austria-Hungary over the sinking of the Italian steamship *Ancona* on November 7, 1915, by a submarine flying the Austro-Hungarian flag. In a note of December 6 to the Austro-Hungarian Government, Secretary Lansing related the details of the sinking as reported by survivors.⁵⁴ The submarine had fired a shot toward the steamship, which immediately attempted to escape. It had stopped upon being overtaken by the submarine. Before the crew and passengers could take to the boats, the submarine shelled the vessel and finally torpedoed and sank it while many persons were still on board. A large number of persons lost their lives or were seriously injured, among whom were American citizens.

The Secretary stated that the submarine commander had violated the principles of international law and of humanity by shelling and torpedoing the *Ancona* before the persons on board had been put in a place of safety or even given sufficient time to leave the vessel. He considered the act a "wanton slaughter of defenseless non-combatants" since at the time the vessel was shelled and torpedoed it was not resisting or attempting to escape, and no other reason was sufficient to excuse such an attack. He believed that the commander of the submarine had "committed this outrage" without authority and contrary to instructions.

Finally, the United States must "demand" that the Austro-Hungarian Government denounce the sinking of the *Ancona* as illegal and indefensible, that the submarine commander be punished, and that reparation be made by the payment of an indemnity for American citizens who were killed or injured.

The Austro-Hungarian Government, in a note of December 15, failed to comply with the demands of the United States.⁵⁵ Secretary

⁵⁴ Document 139.

⁵⁵ Document 140.

Lansing thereupon told the Chargé at Washington that the only way to "remove the present crisis would be for Austria to comply at once with our demands."⁵⁶ These demands were renewed on December 19 in a reply to the Austro-Hungarian Government.⁵⁷

Secretary Lansing mentioned that the Austro-Hungarian Admiralty had admitted that the *Ancona* was torpedoed after its engines had been stopped and when passengers were still on board. The Secretary considered this admission alone sufficient to fix upon the commander of the submarine the responsibility for having violated international law and having disregarded the principles of humanity. In view of this admission, the Secretary felt that the details of the sinking of the *Ancona* and the number of Americans killed or injured were not essential matters of discussion. The "culpability" of the commander was established, and American citizens had been killed, injured, or jeopardized by his lawless act.

On December 21, Secretary Lansing made clear to the Austro-Hungarian Chargé that the United States could not recede from the position it had taken.⁵⁸

Senator Stone told Secretary Lansing on the same day that he thought the Government was dealing too severely with the Central Powers and was not pressing Great Britain as strongly as it should in insisting upon an observance of American rights. The Secretary replied that the loss of life seemed to require more drastic treatment than loss of property. The right to life was "an inherent right", the loss of which could never be indemnified, but the right of property was "a legal right", which could be fully remedied by an indemnity.⁵⁹

In a letter of December 28 to the President, Secretary Lansing discussed what action should be taken if Austria-Hungary did not meet the demands of the United States.⁶⁰ The Secretary felt that the severance of diplomatic relations would be considered hostile by Austria-Hungary and war would result. In such a case, he believed the Administration would be attacked on the ground that the President had exceeded his power by bringing about a situation which "must eventuate in war". The Secretary believed that the situation might be avoided by presenting the case to Congress.

The President replied on December 29 that to present the case publicly before Congress would "in effect be to announce that we expected war and might be the means of hastening it."⁶¹ However,

⁵⁶ Document 141.

⁵⁷ Document 142.

⁵⁸ Document 144.

⁵⁹ Document 145.

⁶⁰ Document 146.

⁶¹ Document 147.

he believed that the Government could not refuse to discuss the matter with Austria-Hungary "until all the world is convinced that rock bottom has been reached."

On the following day Secretary Lansing received information that the Austro-Hungarian Government had agreed to meet the demands of the United States.

AMERICAN PROPOSAL OF JANUARY 18, 1916

The Department of State had declared in 1914 that a merchant vessel of belligerent nationality might carry an armament and ammunition for the sole purpose of defense without acquiring the character of a ship of war. Secretary Lansing stated on September 12, 1915, that at the time the declaration was made the use of the submarine as a commerce destroyer was unknown.⁶³ He believed that under the changed conditions a new declaration was required because an armament which previously was clearly defensive, might now be employed for offensive operations "against so small and unarmored a craft as a submarine". As merchant vessels were actually attacking submarines he considered it difficult to demand that a submarine should give warning and so expose itself to the heavy guns carried by some of the British passenger vessels. The Secretary believed the declaration made in 1914 should be amended by asserting that in view of the successful employment of submarines as commerce destroyers and the possibility of offensive operations against them by armed merchant vessels, the United States would treat as a ship of war any armed merchant vessel of belligerent nationality which entered an American port.

After a consultation with the President, the Secretary was directed to prepare the new declaration. It was not to be published or put into effect until "we see what we are going to be able to work out of this *Arabic* business".⁶⁴

Late in 1915 Secretary Lansing expressed to British and Italian representatives, the opinion that armed merchantmen should be treated as ships of war.⁶⁵ On January 7, 1916, the Secretary wrote the President that he appreciated the German point of view in regard to the danger to a submarine in attacking an armed vessel.⁶⁶ To "safeguard human life" he suggested an agreement that Germany and Austria should not torpedo enemy merchant vessels without placing the persons on board in safety, and that the Entente Powers should not permit merchant ships to carry armament.

⁶³ Document 125.

⁶⁴ Document 126.

⁶⁵ Document 149.

⁶⁶ Document 151.

It was decided to submit this suggestion to the Entente Governments only. Secretary Lansing explained the reasons for this procedure: (1) Germany and Austria-Hungary would certainly assent as the proposal merely required them to conform to the rules of international law, while it required their enemies "to modify a present practice which might be construed into the relinquishment of a legal right"; (2) if Germany and Austria promptly accepted the proposal, any "demur" by the Entente Powers would become known and would excite public resentment against those Powers.⁶⁷

Secretary Lansing submitted the proposal to the diplomatic representatives at Washington of Belgium, France, Great Britain, Italy, Japan, and Russia. He stated in a note of January 18 that, as there might be American citizens on any merchant ship of belligerent nationality, the United States was deeply interested in ending the dangers to life which resulted from the use of submarines as then employed.⁶⁸ Although he was aware of the appalling loss of life among noncombatants which had resulted from the destruction of merchant vessels and although he considered the practice contrary to humane principles, he did not feel that a belligerent should be deprived of the proper use of submarines for the interruption of enemy commerce.

His comments on this subject were "predicated on the following propositions": (1) a noncombatant has a right to travel on a belligerent merchant vessel; (2) a belligerent merchant vessel should not be attacked without being ordered to stop; (3) the vessel should immediately stop when ordered by an enemy submarine; (4) the vessel should not be attacked after being ordered to stop unless it attempted to flee or resist, and the attack should discontinue if it ceased to flee or to resist; (5) if the submarine commander cannot place a prize crew on board or convoy it into port, the enemy merchant vessel may be sunk after the crew and passengers have been removed to a place of safety.

Secretary Lansing stated that before 1915, belligerent operations against enemy commerce on the high seas had been conducted with cruisers carrying heavy armaments. Under these conditions international law appeared to him to permit a merchant vessel to carry an armament for defensive purposes without losing its character as a private commercial vessel. This limited armament could not be used effectively in offense against enemy naval vessels, but it could defend the merchantman against the inferior armament of piratical ships and privateers. The use of the submarine, he stated, had changed these relations. As compared with a cruiser, a

⁶⁷ Document 155.

⁶⁸ Document 156.

submarine was "almost defenseless in point of construction". As privateers and piratical ships were no longer to be reckoned with, he believed merchantmen were armed only that they might be made superior in force to submarines and might prevent warning and visit and search by the latter. Any armament on a merchant vessel, therefore, "would seem to have the character of an offensive armament."

In order to bring submarine warfare within the general rules of international law and the principles of humanity without destroying its efficiency in the destruction of commerce, Secretary Lansing proposed that the Entente Governments make the following declaration upon the condition that their enemies should make a like declaration: (1) submarines should adhere strictly to the rules of international law in stopping and searching merchant vessels, determining their belligerent nationality, and removing crews and passengers to places of safety before sinking the vessels as prizes of war; and (2) merchant vessels of belligerent nationality should be prevented from carrying armament.

In conclusion, Secretary Lansing expressed the conviction that the belligerents would consider primarily the humane purpose of saving the lives of innocent people rather than insist upon a "doubtful legal right" which might be denied on account of new conditions. Finally, the United States was "impressed with the reasonableness of the argument" that a merchant vessel carrying an armament of any sort should be treated as an auxiliary cruiser by a neutral as well as by a belligerent government, and was seriously considering the instructing of its officials accordingly.

Ambassador Page in Great Britain reported on January 25, that the proposal of the United States was considered by Sir Edward Grey as in favor of Germany and against the Allies.⁶⁹ The Ambassador expressed the opinion that if defensively armed British merchantmen could not enter ports of the United States, this change might "precipitate a cutting off of American orders." Secretary Lansing thereupon informed the President that although the proposal would apparently be unacceptable to the Allies he did not think it necessary to "act immediately upon such refusal."⁷⁰

Although the proposal of January 18 was not presented to the Central Powers, the Austro-Hungarian Chargé told the Secretary of State on January 26 that he knew it had been made.⁷¹ The Chargé said that the Central Powers believed that an armed merchantman should not be treated as a peaceful vessel and was considering issuing an announcement to that effect. He inquired when the

⁶⁹ Document 161.

⁷⁰ Document 164.

⁷¹ Document 175.

Secretary thought it would be desirable to issue such a declaration. The Secretary replied that "the sooner it was issued the better", and the Chargé reported to his Government that Secretary Lansing would "welcome" the issuance of the proposed declaration by the Central Powers.

Germany declared on February 8, 1916, that armed enemy merchant vessels no longer had any right to be considered as peaceable commercial vessels and that German naval forces would receive orders to treat them as belligerents.

A week later Secretary Lansing announced that if Americans should lose their lives in a submarine attack which came without warning upon a belligerent merchantman armed solely for defense, the act would be regarded as a breach of international law.⁷² He stated that there was then no intention to warn Americans to refrain from traveling on belligerent merchantmen armed solely for defense.

The Secretary explained that the United States admitted the legal right of merchant vessels to arm for the sole purpose of defense but felt that there should be a change in the existing rule of international law permitting them to arm. Nevertheless, the United States did not feel that during the war it could change the established rule without the assent of the contending belligerents. The proposal of January 18 to the Entente Powers, he stated, had been made in the interest of obtaining "for humanity's sake", assent to the removal of all armament from merchant ships. He hoped they would accept the proposal but until they did there was no intention to submit it to the Central Powers. If the proposal was not accepted, the United States would "rely upon the present established rule of international law that merchant ships are entitled to armament for defensive purposes only".

Resolutions were soon considered in Congress to warn American citizens against traveling upon armed merchantmen of belligerents. In a letter of February 24 to Senator Stone, Chairman of the Committee on Foreign Relations, President Wilson made known his view on the proposition.⁷³ He could not consent to any abridgment of the rights of American citizens. To forbid the American people to exercise their rights for fear the nation might be called upon to vindicate them, would be an implicit acquiescence in the violation of the rights of mankind and a deliberate abdication of the position of the American people as spokesmen "for the law and the right". If in this instance the United States should allow expediency to take the place of principle, he felt that the way would

⁷² Document 168.

⁷³ Document 173.

inevitably be opened for further concessions. The acceptance of one abatement of right would certainly be followed by many other humiliations and the whole structure of international law "might crumble under our hands piece by piece". The United States could not yield without virtually surrendering its independent position among the nations of the world. Finally, the President stated that the United States desired peace and should "preserve it at any cost but the loss of honor."

On March 3, 1916, Secretary Lansing sent Representative Flood a memorandum containing arguments against the proposed resolutions to warn Americans against traveling upon armed merchantmen.⁷⁵ A few days later the resolutions were defeated.

The Entente Powers notified the United States on March 23 that they could not accede to the American proposal regarding armed merchantmen and submarines. Secretary Lansing then prepared a memorandum dated March 25⁷⁶ to show the consistency of the statements in the letter of January 18 with the accepted rules for arming merchant vessels.⁷⁷ This memorandum was made public late in April.⁷⁸

"LUSITANIA" NEGOTIATIONS, 1916

Secretary Lansing informed Ambassador Bernstorff on December 20, 1915, that the delay in settling the *Lusitania* controversy might result in the "gravest consequences".⁷⁹ In order to expedite negotiations the Secretary stated that instructions from the German Government might be sent to the Ambassador through the American Embassy at Berlin and the Department of State. On the 31st, Ambassador Bernstorff received cabled instructions according to which Germany offered to submit to arbitration the question "whether and to which extent Germany is obliged to pay indemnity for the death of American citizens caused by the sinking of the *Lusitania*."⁸⁰ However, the Ambassador told the Secretary that if a fairly good case could be made out against arbitration, Germany would probably follow the course adopted by Austria-Hungary in the *Ancona* case. Secretary Lansing said that from the legal point of view he could see nothing to arbitrate. Furthermore, in a note on the *Frye* case Germany had admitted that "all possible care must be taken for the security of the crew and passengers of a vessel to be sunk."

The Ambassador submitted another proposed reply on January 7, 1916, in which Germany agreed to pay indemnity, without admitting

⁷⁵ Document 174.

⁷⁶ Document 187.

⁷⁷ Document 184.

⁷⁸ See p. 77.

⁷⁹ Document 143.

⁸⁰ Document 148.

liability. Secretary Lansing understood that the indemnity would be paid "on the basis of comity and not on the basis of right."⁸¹ President Wilson considered the German position "a concession of grace, and not at all of right."⁸² Secretary Lansing told the Ambassador on January 10 that it was necessary for Germany to admit liability frankly "as that would amount to a disavowal, and disavowal in some form we must have."⁸³

On January 22 the Ambassador presented two other draft notes on the *Lusitania* case.⁸⁴ Secretary Lansing considered these no improvement over the last one.⁸⁵ He reported to the President that further conversations with the Ambassador appeared useless, that there seemed to be no other course but formally to demand that the German Government admit illegal conduct by the submarine commander, and liability for the lives of American citizens lost by the sinking of the vessel. Secretary Lansing was directed by the President that no steps should then be taken toward a diplomatic break.⁸⁶ He should merely inform the Ambassador that the proposed reply was not satisfactory and seemed to close conversations unless the German Government could change its attitude.

In a conversation of January 25, 1916, Secretary Lansing told the Ambassador that the draft notes were not satisfactory; that he could see no good reason for a continuance of the informal conversations unless Germany frankly admitted the illegality of the submarine commander's conduct and also admitted liability for the American lives lost.⁸⁷ The Ambassador was sure his Government would not go as far as that and asked what would be the course of the United States in case Germany could not meet those demands. The Secretary replied that he saw no other course than to break off diplomatic relations, to which the Ambassador answered that he did "not see how the matter could stop with the breaking off of diplomatic relations. It would go further than that." Secretary Lansing said that this view was probably correct. He had discussed the matter with the President and assured the Ambassador that "we do not hesitate to assume responsibility for what may occur."

On January 26 Ambassador Bernstorff presented another draft reply. After some changes had been made at the suggestion of the Secretary, President Wilson stated that it would fully meet the demands of the United States.⁸⁸ The Ambassador then sent the

⁸¹ Document 152.

⁸² Document 153.

⁸³ Document 154.

⁸⁴ Document 157.

⁸⁵ Document 158.

⁸⁶ Document 159.

⁸⁷ Document 162.

⁸⁸ Document 163.

draft to Berlin. It contained the following statements: (1) "retaliation becomes an illegal act if applied to other than enemy subjects"; (2) the German Government "expresses profound regret that citizens of the United States suffered by the sinking of the *Lusitania* and, recognizing the illegality of causing their death, and admitting liability therefor, offers to make reparation for the lives of the citizens of the United States who were lost."

The German Government informed Colonel House that if the United States insisted upon this wording a break would be unavoidable; that the wording practically amounted "to declaring submarine warfare illegal."⁸⁹

On February 4 the German Ambassador presented a counter proposal containing the following passages: (1) "retaliation must not aim at other than enemy subjects"; (2) the German Government "expresses profound regret that citizens of the United States suffered by the sinking of the *Lusitania*, and assuming liability therefor, offers to make reparation for the lives of the citizens of the United States who were lost."

Secretary Lansing believed that this proposal came "near meeting all our demands."⁹⁰ He suggested some minor changes which the Ambassador submitted to his Government.⁹¹ The German Government's reply of February 16⁹² did not differ substantially from the draft of February 4.

On February 8, Germany had declared that it would treat armed enemy merchantmen as belligerents.⁹³ In view of this announcement, Secretary Lansing did not feel that the German note of February 16 could be accepted as a settlement of the *Lusitania* case.⁹⁴ President Wilson stated that it would be "our duty" to accept the note as satisfactory, if the declaration of February 8 had not been issued.⁹⁵

The Secretary of State told Ambassador Bernstorff on February 17 that there had been two questions in the *Lusitania* controversy: one concerning proper amends for past conduct of submarine warfare; and the other concerning future conduct.⁹⁶ The question relating to amends for the sinking of the *Lusitania*, he considered "substantially settled." He had assumed that the assurances Germany gave in regard to the future conduct of submarine commanders settled the second, but the question appeared to be reopened by the declaration of new policy. The Ambassador asked the Sec-

⁸⁹ Document 165.

⁹⁰ Document 166.

⁹¹ Document 167.

⁹² Document 169.

⁹³ See p. 71.

⁹⁴ Document 170.

⁹⁵ Document 171.

⁹⁶ Document 172.

retary if he could tell his Government that except for the future of submarine warfare the reply of February 16 was satisfactory. Secretary Lansing replied that the Ambassador could not say the reply was satisfactory but "might say in the circumstances that it was acceptable."

On the evening of February 17 the Secretary of State cabled the Ambassador in Germany that Germany's proclamation concerning future conduct toward enemy merchant ships came "at a moment when we were about to conclude a satisfactory settlement covering her past conduct. The decree has entirely upset the negotiations, with the result that the *Lusitania* case remains unsettled."⁹⁷

Although President Wilson and Secretary Lansing discussed the case later in the year, no action was taken.⁹⁸

ATTACK ON THE "SUSSEX"

The unarmed French steamer *Sussex* was attacked without warning on March 24, 1916, while crossing the English Channel. About 80 passengers, including American citizens, were killed or injured.

Assuming that the vessel had been torpedoed, Secretary Lansing advised the President that diplomatic relations with Germany should be severed.⁹⁹ The Government could "no longer temporize in the matter of submarine warfare when Americans are being killed, wounded, or endangered by the illegal and inhuman conduct of the Germans." The President replied that even if the damage was caused by a torpedo, he believed that there were "many particulars to be considered about the course we should pursue as well as the principle of it."¹

In communications of April 12,² and April 15,³ to the President, Secretary Lansing advised that the Government should take a firm stand in a note to Germany. The Secretary conferred with the German Ambassador on the 18th.⁴ Ambassador Bernstorff then presented a telegram from his Government stating that submarine warfare had been modified to maintain friendly relations with the United States even at the sacrifice of important military advantages. Germany hoped that the United States would appreciate this and not put forward new demands "which might bring us into an impossible situation."

⁹⁷ Footnote 56a, p. 461.

⁹⁸ See p. 78.

⁹⁹ Document 176.

¹ Document 177.

² Document 179.

³ Document 180.

⁴ Document 181.

On the evening of April 18, a note on the *Sussex* case was sent to Germany.⁵ Secretary Lansing stated that the fact had been conclusively established that the vessel was torpedoed without warning by a German torpedo. He emphasized the "gravity of the situation" which had resulted from the attack on this vessel and from submarine warfare generally during the past year and more. The attack upon the *Sussex* "caused a loss of life so tragical as to make it stand forth as one of the most terrible examples" of the inhumanity of German submarine warfare. If the attack had been an isolated case, he might have hoped that the officer responsible for that act had wilfully violated orders or had been criminally negligent, and that the ends of justice might be satisfied by an adequate punishment of the officer, by a formal disavowal of the act, and by the payment of a suitable indemnity by the German Government.

The Secretary mentioned that the United States had protested when Germany announced that the waters surrounding Great Britain and Ireland were to be considered as an area of war.⁶ However, Germany had persisted in carrying out the announced policy, giving assurances that it would take every possible precaution to respect the rights of neutrals and to safeguard the lives of non-combatants, and expressing the hope that the dangers involved would be reduced to a minimum by instructions to submarine commanders. Although the German Government had given assurances that at least passenger ships would not be ruthlessly destroyed, the Secretary continued, it had repeatedly permitted submarine commanders to disregard those assurances. In February it had announced an intention to treat enemy armed merchantmen as men of war, thus, at least by implication, pledging itself to warn unarmed vessels and to accord security of life to their passengers and crews. Even this limitation had been "recklessly ignored" by submarine commanders.

The Secretary stated that vessels had been destroyed in constantly increasing numbers. Sometimes the merchantmen had been summoned to surrender before being fired on, sometimes their passengers and crews had been allowed to take to boats before the ship was sunk, but often no escape had been allowed to those on board. Great liners and mere passenger boats had been attacked without warning, he continued, and the lives of noncombatants, passengers, and crew had been destroyed wholesale in a manner which was "wanton and without the slightest color of justification". Hundreds of Americans had lost their lives upon merchantmen of all nationalities thus attacked and destroyed. It had become evident that the use of sub-

⁵ Document 182.

⁶ See p. 52.

marines for the destruction of enemy commerce was "utterly incompatible" with the principles of humanity, the rights of neutrals, and the immunities of noncombatants. Finally, unless Germany should "immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether".

Ambassador Bernstorff called on Secretary Lansing on April 20 to ask how a diplomatic break might be avoided. The Secretary replied that submarine warfare should stop against commercial vessels unless visit and search was observed.⁷

On the 24th Secretary Lansing advised the President that Germany might abandon submarine warfare against merchant vessels, and then attack vessels with armaments, claiming that they were not merchant vessels.⁸ He thought the Government should be "prepared to meet this move at the very outset" and submitted for approval the memorandum of March 25 on the status of armed merchant vessels.⁹ After receiving the President's approval of the memorandum,¹⁰ Secretary Lansing advised making it public.¹¹ He believed that there would be a decided strategic advantage to have made known the American position on armed vessels before Germany replied to the *Sussex* note. The memorandum was made public on April 26.

On April 28, the Secretary of State cabled the Ambassador in Germany that if the Government should enquire in regard to the methods of warfare considered legal by the United States, he should reply as follows:¹² (1) a belligerent warship can directly attack a merchant vessel which resists or continues to flee after a summons to surrender; (2) an attacking vessel must display its colors before exercising belligerent rights; (3) if a merchant vessel surrenders, the attack must immediately cease and the rule of visit and search must be exercised; (4) an attacking vessel must disclose its identity and name of commander when exercising visit and search; (5) a vessel of belligerent nationality may be sunk only if it cannot be taken into port and provided that the persons on board are put in a place of actual safety and that loss of neutral property is indemnified; (6) a vessel of neutral nationality can be sunk only in circumstances of gravest importance to the captor's state, and then only in accordance with the foregoing provisos.

⁷ Document 183.

⁸ Document 184.

⁹ Document 187.

¹⁰ Document 185.

¹¹ Document 186.

¹² Document 188.

The German Government replied on May 4 to the note of April 18, that merchant vessels "both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance". However, neutrals could not expect that Germany should "for the sake of neutral interest, restrict the use of an effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law".

In the preparation of an answer to Germany, Secretary Lansing stated the opinion that although the note should be polite, "we should omit any expression of relief on having avoided a break".¹⁴ A brief answer was sent on May 8.¹⁵ Secretary Lansing assumed that Germany did not intend to imply that the maintenance of this newly announced policy was contingent upon negotiations between the United States and any other belligerent nation. In order to avoid any possible misunderstanding he gave notification that the Government could not entertain or discuss the suggestion "that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other government affecting the rights of neutrals and noncombatants".

Secretary Lansing explained in a press statement of this date that although our differences with Great Britain could not form a subject of discussion with Germany, it should be noted that the United States had treaty obligations regarding the manner of handling matters in dispute between the two countries.¹⁶

Immediately after the note was sent to Germany, Secretary Lansing asked the President what position should be taken if a German submarine torpedoed without warning a belligerent merchant vessel which had no Americans on board.¹⁷ The President replied that in such a contingency the Government should be justified in making inquiries of Germany with regard to the facts "but we would not be justified in acting unless her reply to those inquiries indicated a departure from the policy she has now agreed to follow".¹⁸

In September 1916, Secretary Lansing wrote to President Wilson in regard to the delay which had occurred in the settlement of the *Lusitania* case.¹⁹ In order to remove charges that the Administration was "simply letting matters drift", the Secretary suggested that he might see Ambassador Bernstorff in regard to a settlement. The

¹⁴ Document 189.

¹⁵ Document 190.

¹⁶ Document 191.

¹⁷ Document 192.

¹⁸ Document 193.

¹⁹ Document 202.

President replied that it might be desirable to take up the case with Ambassador Bernstorff "if he thinks it can be settled now without soon widening into the ancient difficulty."²⁰ However, the President felt that the "atmosphere of the moment" was most unfavorable for negotiations.

Secretary Lansing wrote on October 2 that he now doubted the advisability of taking up the question until after election; that probably it was better to endure the criticism of delay than to start anew a public discussion which might embarrass the Government in case submarine warfare was renewed.²¹ He sent a copy of the letter of February 16²² to "refresh" the President's memory. The President replied that he was glad that Secretary Lansing agreed "about the necessity of holding things in their unstable equilibrium for the present." He would retain the letter of February 16 until "we return to the discussion."²³

The Secretary reminded the President, in a letter of December 8, 1916, that during the past two months Germany had attacked merchant vessels without warning and had attempted to defend the submarine commanders "on the ground of mistake."²⁴ He called attention to the fact that the United States had taken a definite stand in the *Sussex* case, declaring that diplomatic relations could not be continued if Germany attacked merchant vessels without warning. He did not see how the United States could accept Germany's defense of submarine commanders without receding from the position taken that there could be no mistakes where American lives were lost or jeopardized. If the United States intended to live up to its declaration in the *Sussex* case, Secretary Lansing saw no course other than to sever diplomatic relations with Germany; a crisis had come which should be met "promptly and squarely."

No action was taken as a result of Secretary Lansing's letter. Four days after it was written, December 12, the Central Powers offered to enter into peace negotiations, and on December 18 President Wilson suggested that the belligerent governments communicate their terms of peace. These peace moves, however, were not fruitful.

GERMAN WAR ZONE, JANUARY 31, 1917

In a memorandum of January 10, 1917, the German Government presented evidence to support the conclusion that "armed merchant vessels of its adversaries in this war are to be treated as belliger-

²⁰ Document 205.

²¹ Document 206.

²² See p. 74.

²³ Document 207.

²⁴ Document 213.

ents". The German Government stated that it was "acting on the same grounds" taken by the American Government on January 18, 1916. Secretary Lansing believed that this memorandum was presented at the time for the purpose of "laying the groundwork for excuse in beginning a more drastic submarine campaign".²⁴ On January 17 he informed the President that as a renewal of submarine activity seemed imminent, he did not feel that the Government could long delay determining upon a definite policy in regard to armed merchantmen.²⁵ He mentioned that there were reasonable arguments on both sides of the question which led "to conclusions utterly irreconcilable"; that he could see no common ground for compromise.

In a cable which reached Washington on January 23 Ambassador Gerard in Germany reported his belief that the German Government would "resume reckless submarine warfare by way of attacks without notice on armed merchant vessels, and that an endeavor is being made to place the United States in a position of tacitly or openly consenting to such attacks without notice on armed merchantmen".²⁶ The President considered it probable that Ambassador Gerard's conjecture was well founded. On January 24 he asked if Secretary Lansing had concluded whether the recent British practices in regard to the arming of their merchantmen "force upon us an alteration of our own position in that matter".²⁷

President Wilson considered the German memorandum of January 10 in a letter of January 31 to Secretary Lansing.²⁸ He felt that the British were going beyond the spirit of the principles previously settled in regard to armed merchant ships and that the method in which their ship captains were instructed to use their guns had often gone beyond what could legitimately be called defense. The question was "more whether their guns have been used only for defense than whether they exceed in calibre what would reasonably constitute armament for defense and whether their being mounted in the bow is a presumption that they are to be used for offense."

Secretary Lansing reported to the President on the afternoon of January 31 his conclusion that privately owned merchant ships of enemy register were entitled to defend themselves. Their treatment as public ships because they carried an armament adequate to protect them from destruction "can find no warrant in the rules of naval warfare or in justice."²⁹

²⁴ Document 216.

²⁵ Document 217.

²⁶ Document 218.

²⁷ Document 220.

²⁸ Document 222.

²⁹ Document 223.

Later in the afternoon the Secretary received the announcement that Germany would resume unrestricted warfare.³⁰ In view of this, no action was taken in regard to armed merchant ships. However, the President indicated doubt as to the soundness of Secretary Lansing's conclusions.³¹

The announcement of January 31 included the following statement: "Germany will meet the illegal measures of her enemies by forcibly preventing after February 1, 1917, in a zone around Great Britain, France, Italy and in the eastern Mediterranean all navigation, that of neutrals included, from and to England and from and to France, etc., etc. All ships met within that zone will be sunk."

Secretary Lansing expressed to the President on February 2 his firm conviction that without taking any preliminary step the Government should sever diplomatic relations with Germany.³²

SEVERANCE OF RELATIONS WITH GERMANY

President Wilson reported the German announcement to Congress on February 3, 1917.³³ He called attention to the American statement of April 18, 1916, that unless the German Government should "immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether";³⁴ to the German reply of May 4 that merchant vessels "both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance" but that neutrals could not expect that Germany should "for the sake of neutral interest, restrict the use of an effective weapon if her enemy is permitted to apply at will methods of warfare violating the rules of international law";³⁵ and to the American statement of May 8, that the Government could not entertain or discuss the suggestion "that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and noncombatants".³⁶

The President informed Congress that in view of the new German declaration which suddenly withdrew the assurance of May 4, 1916,

³⁰ Document 224.

³¹ Document 225.

³² Document 226.

³³ Document 227.

³⁴ See p. 76.

³⁵ See p. 78.

³⁶ See p. 78.

the Government had no alternative "consistent with the dignity and honor of the United States" but to take the course announced on April 18, 1916. He had, therefore, directed the Secretary of State to announce to the German Ambassador the severance of all diplomatic relations between the United States and the German Empire.

President Wilson stated that notwithstanding this unexpected action of the German Government, only overt acts could make him believe that it would disregard "solemn obligations" or the "ancient friendship" between Germany and the United States. If, however, American ships and American lives should actually be sacrificed by German naval commanders "in heedless contravention of the just and reasonable understandings of international law and the obvious dictates of humanity", the President announced that he would appear again before Congress. He should ask for authority to use any means necessary for the protection of the American people in "their peaceful and legitimate errands on the high seas."

Nine days after this address was delivered, the Secretary of State informed the Swiss Minister that the United States would gladly discuss with the German Government any questions it might propose for discussion if it would withdraw the proclamation of January 31, 1917.⁸⁷ However, the United States could not enter into any discussion with that Government concerning its submarine warfare against neutrals unless and until it renewed the assurances of May 4, 1916, and acted upon those assurances.

NOTE REGARDING BRITISH DANGER AREA

The British Government had given notice on January 24, 1917, that in view of Germany's unrestricted mine and submarine warfare against the Allies and against neutral shipping, beginning February 7 a designated area in the North Sea adjacent to Germany, Denmark, and the Netherlands, but excluding the territorial waters of Denmark and the Netherlands, would be "rendered dangerous to all shipping" by operations against the enemy.⁸⁸ This area, the British Government stated, "should therefore be avoided."

Secretary Lansing, in a note of February 19, 1917, to the British Ambassador, observed that during the war Great Britain had given notice of certain delimited areas of the high seas, designated as military areas or danger areas, within which all vessels were warned that they would be subject to grave dangers and that they would enter such waters at their peril.⁸⁹ The Secretary pointed out that the question of appropriating portions of the high seas for military

⁸⁷ Document 229.

⁸⁸ Document 221.

⁸⁹ Document 231.

operations, to the exclusion of use as a highway of commerce, had not become a settled principle of international law. Therefore, the United States reserved the right to question the validity of these measures, and to present claims in regard to any American interest which might be "unlawfully affected, directly or indirectly, by virtue of the enforcement of these measures."

ARMED NEUTRALITY

The Government of the United States decided on February 6, 1917, that it could not advise private persons whether their merchant vessels should sail on voyages which would take them through the area delimited by Germany.⁴⁰ However, it asserted that the rights of American vessels to traverse all parts of the high seas were the same as they had been prior to the issuance of the German declaration. A neutral vessel might, if its owners believed that it was liable to be unlawfully attacked, "take any necessary measures to prevent or resist such attack".

Shortly thereafter an American steamship company informed the Secretary of State that it desired to arm its ships in English ports. The British Government was willing to supply the guns if the United States did not object. Secretary Lansing wrote the President on February 14 that he was "very doubtful as to whether we should give consent".⁴¹ Although no record has been found of a decision by the President, it may be assumed that consent was not given for the arming of American ships by the British Government.

In a memorandum presented to the President on February 21, Secretary Lansing held that it was "the duty of a neutral government to give full sanction to and to advise its merchant vessels to arm and resist illegal attacks". He discussed the question whether it was the duty of a neutral government to provide the guns and gun crews necessary to equip its merchant vessels for defense, but did not recommend a course of action for the United States.⁴²

President Wilson reported to Congress on February 26, that it had proved impossible by diplomatic means to safeguard the neutral rights of the United States against the unwarranted infringement they were suffering at the hands of Germany.⁴³ There might be no recourse but to armed neutrality, "which we shall know how to maintain and for which there is abundant American precedent".

The President stated that he was not proposing or contemplating war or any steps that might lead to it; war could come "only by the

⁴⁰ Document 228.

⁴¹ Document 230.

⁴² Document 232.

⁴³ Document 233.

willful acts and aggressions of others". He requested that Congress authorize him to supply American merchant ships with defensive arms, if that should become necessary, and with the means of using them. Furthermore, he requested authorization to employ any other instrumentalities that might be necessary to protect American ships and American people in their peaceful use of the seas.

The House promptly passed a bill giving the President the authority requested. In the Senate the bill failed of passage, as it did not come to a vote prior to the close of the session of Congress, March 4, 1917. The President thereupon issued a statement that "A little group of willful men, representing no opinion but their own, have rendered the great Government of the United States helpless and contemptible."

On March 6 Secretary Lansing told the President that there appeared to be no more impropriety for the Government to place armed guards on American merchant vessels to preserve the lives of the persons on board than to land forces on foreign soil to protect the lives of American citizens.⁴⁴ He suggested that the Government should frankly declare it to be "our duty to place on every American merchant vessel sailing for the 'danger zone' a naval guard with an armament sufficient to protect it from submarine attack". Two days later he stated that as the existing state of affairs appeared "hopeless for ultimate peace", the United States should "proceed on the theory that we will in a short time be openly at war with Germany".⁴⁵ In accordance with this view, he believed that American merchant vessels should be sent out under armed guard.

On March 9 the Secretary of State⁴⁶ and the Secretary of the Navy⁴⁷ wrote to the President with regard to procedure to be followed in carrying out a policy of arming American merchant vessels. On March 12 the Department of State announced that in view of the German declaration of January 31, the United States had decided to place on all American merchant vessels sailing through the barred areas, an armed guard for the protection of the vessels and the lives of the persons on board.⁴⁸ Confidential instructions provided that the armed guards were "for the sole purpose of defense against the unlawful acts of the submarines of Germany or of any nation following the policy announced by Germany."⁴⁹

Reports were received in Washington on March 18 and 19 that three American vessels, the *Vigilancia*, *City of Memphis*, and *Illinois*,

⁴⁴ Document 235.

⁴⁵ Document 237.

⁴⁶ Document 239.

⁴⁷ Document 238.

⁴⁸ Document 240.

⁴⁹ Document 241.

had been sunk by submarines, with a loss of fifteen lives.⁵⁰ These were the first fatalities resulting from submarine attacks on American vessels since the torpedoing of the *Gulflight*, May 1, 1915.⁵¹ The President and Secretary of State felt that these attacks did not constitute a reason for declaring that a state of war existed between the United States and Germany.⁵² However, the Secretary felt that they showed that Germany intended to carry out the policy announced and that it would be only a question of time before the United States would be "forced to recognize these outrages as hostile acts". As war appeared inevitable, he favored immediate participation.

On March 21 the President requested Congress to convene on April 2 in extra session. At the time Congress convened, sixty-six American citizens had been killed as a result of submarine attacks on American vessels and one hundred seventy-seven as a result of submarine attacks on foreign vessels.⁵³

DECLARATION OF A STATE OF WAR WITH GERMANY, APRIL 6, 1917

In his message to Congress, President Wilson stated that Germany's announcement of January 31, 1917, that submarines would be used without "restraints of law or of humanity", had seemed to be the object of the German submarine warfare earlier in the war.⁵⁴ However, for a year Germany had somewhat restrained submarine commanders in conformity with promises that passenger vessels should not be sunk, that warning would be given all other vessels which did not resist, and that their crews would be given a fair chance to save their lives. These precautions were meager, as had been proved in many instances of this "cruel and unmanly business", but a certain degree of restraint had been observed. The new policy, he stated, had swept aside all restrictions. Vessels of every kind had been ruthlessly destroyed without warning and without help or mercy for those on board, vessels of neutrals along with those of belligerents. Although the loss of property was serious, the President was concerned with the "wanton and wholesale destruction" of the lives of noncombatants engaged in pursuits which had always been considered innocent and legitimate. Property could be paid for, but the lives of innocent people could not be. The German submarine warfare against commerce was a "warfare against mankind."

President Wilson stated that when he had addressed Congress on February 26 he had thought "it would suffice to assert our neutral

⁵⁰ Document 245.

⁵¹ See p. 55.

⁵² Document 242.

⁵³ Document 245.

⁵⁴ Document 243.

rights with arms." But armed neutrality, it now appeared, was impracticable. Submarines, he stated, were in effect outlaws when used as German submarines had been used against merchant ships, and it was impossible to defend ships against their attacks. Within proscribed areas of the sea Germany denied the right of neutrals to use arms even in defense of rights which no modern publicist had ever before questioned. The intimation had been conveyed that the armed guards which had been placed on American merchant ships might be dealt with as pirates. Under these conditions, he believed that armed neutrality was practically certain to draw the United States into the war without either the rights or the effectiveness of belligerents. The United States would not choose the path of submission and suffer the "most sacred rights of our nation and our people to be ignored or violated."

The President advised that Congress declare the recent course of the German Government to be war against the Government and people of the United States; that Congress formally accept the status of belligerent which had thus been thrust upon it; and that Congress exert all its power to bring the German Government to terms and end the war.

On April 6 a Joint Resolution of Congress was approved, stating that as the German Government had committed repeated acts of war against the Government and people of the United States, "the state of war between the United States and the Imperial German Government, which has thus been thrust upon the United States is hereby formally declared."⁵⁵

⁵⁵ Document 246.

BELLIGERENCY

CHAPTER VI

CONTROL OF EXPORTS

BASIS OF COOPERATION WITH THE ALLIES

The first statement of the general policy the United States as a belligerent was to pursue toward neutral commerce was formulated six weeks after the United States entered the war. In a memorandum of May 17, 1917, the Law Adviser for the Department of State, Mr. L. H. Woolsey, summarized the attitude taken by representatives of the United States in discussions with members of the British War Mission which had come to Washington in April.¹

The Law Adviser stated that the cooperation of the United States with the Allies would be "based on the right of the United States to control its exports to any country, neutral or belligerent," for the purposes of (1) conserving supplies for domestic use and for use of the Allies, (2) conserving tonnage for transporting military necessities for the United States and the Allies, and (3) preventing persons in the United States from trading directly or indirectly for the benefit of the enemy. The United States would not assist in "the blockade of neutral countries," nor participate in other measures of the Allies which it had regarded as contrary to international law.

It was explained in this memorandum that the Government was willing to assist in maintaining exports from neutral countries to the United States and the Allies "purely on the ground of conserving its supplies as a domestic measure and of conserving tonnage." The Government was also willing to assist in preventing exports of the United States from reaching the enemy or from being used by neutral countries to replace products which they exported to the enemy. However, it would not carry this policy to the point where neutrals might be forced "into the arms of Germany."

With regard to neutral ships, the Government was unwilling to force them to call at British ports for examination; and it was unwilling to force them into the danger zone in service for the United States or the Allies, further than to insist that neutrals should use their ships to carry their own supplies to and from belligerents. The

¹ Document 252.

Government was willing to "induce" neutral ships to carry supplies between neutral countries.

Great Britain had "attained the objects set forth above", the Law Adviser stated, through the exercise of belligerent maritime measures. Although the United States considered some of these measures illegal, it was not thereby prevented from controlling exports as a domestic measure, and from attaining through bargaining for the exportation of certain articles, many of the objects attained by Great Britain.

In this memorandum of May 17 the Law Adviser mentioned that, to save tonnage which would be used to transport iron ore from the United States to Great Britain, the United States would restrict exports of coal to Spain unless Spain would export iron ore to Great Britain. Five days later Ambassador Willard in Spain was instructed to inform the Foreign Minister that it might be necessary for the United States to restrict or prohibit the exportation of coal to neutrals.² However, if Spain would continue to export iron ore to Great Britain so as to relieve the large exportations of iron and iron products from the United States to Great Britain and her allies, it might "be possible to facilitate the exportation of limited amounts of coal to Spain."

The Law Adviser further explained the position of the United States in a memorandum read to a British representative on May 25.³ He stated that the acceptance of a British bunkering proposal would not mean that the United States thereby waived the contentions it had previously made in regard to British measures of blockade, rationing, letters of assurance, bunker control, and blacklisting. Furthermore, the United States should not be regarded as "adhering directly or indirectly or by implication" to those measures or the grounds upon which they were founded. The action of the United States would be based on its intention, "as a domestic measure," to (1) conserve supplies, (2) economize tonnage, (3) prevent trading for the benefit of the enemy, (4) prevent the carriage of contraband, and (5) prevent supplies from reaching enemy raiders or submarines.

Later, during negotiations with Great Britain for the release of American goods seized while the United States was neutral,⁴ Secretary of State Lansing made clear that the Government could not withdraw from its previously expressed attitude in regard to the British order in council of March 11, 1915.⁵

² Document 253.

³ Document 254.

⁴ Document 370.

⁵ Document 54.

LAW OF JUNE 15, AND PROCLAMATION OF JULY 9, 1917

Shortly after the United States entered the war, a bill was introduced in Congress to prohibit exports except under license. Secretary Lansing cabled the Minister in Denmark on April 20, 1917, that this measure was not intended to "produce burdensome restrictions" upon or interruptions in commerce of the United States with neutral countries except insofar as necessary to prevent trading with the enemy.⁶

President Wilson informed the Netherland Minister at about this same time that the bill introduced did not contemplate the prohibition of exports but simply empowered the President to order a prohibition if necessary.⁷ The President stated that only in case of extreme necessity, which was not then foreseen, should he forbid the export of foodstuffs and metal to the Netherlands.

The bill became a law on June 15. Title VII provided that during the war whenever the President should find that the public safety should "so require," it should be unlawful "to export from or ship from or take out of the United States" any article mentioned in a proclamation, except under regulations prescribed by the President.⁸ By an Executive order of June 22 the President established an Exports Council to make recommendations necessary to carry out the purposes of this law.⁹ The Exports Council was composed of the Secretary of State, the Secretary of Agriculture, the Secretary of Commerce, and the Food Administrator. In accordance with instructions of the President, the Secretary of Commerce was authorized to grant or refuse export licenses.

The policy of the Government in regard to the control of exports was explained during the latter part of June by the Secretary of State and by the President. Secretary Lansing informed the Swiss Minister that there was no intention to interfere with needed supplies to neutral European countries where measures had been adopted to prevent the reshipment of these supplies to the Central Powers, subject always to the "paramount" needs of the United States and the Allies.¹⁰

President Wilson stated on June 26 that there would be no prohibition of exports.¹¹ Trade would not be arbitrarily interfered with; it would only be "intelligently and systematically directed." The duty of the Government in regard to foodstuffs and like necessities,

⁶ Document 249.

⁷ Document 251.

⁸ Document 256.

⁹ Document 259.

¹⁰ Document 257.

¹¹ Document 260.

he stated, was to see that the Allies received a generous proportion of the surplus of the United States. However, it would also be "our wish and purpose" to supply neutral nations as nearly in proportion to their need as was permitted by the amount to be divided. This policy would be carried out by a system of licensing exports, which would be organized and administered "so as to constitute no impediment to the normal flow of commerce."

The first proclamation relating to exports was issued by the President on July 9.¹² As public safety required that "succor shall be prevented from reaching the enemy", the following commodities should not be exported from the United States except under licenses issued by the Secretary of Commerce: coal, coke, fuel oils, kerosene and gasoline, including bunkers; food grains, flour and meal, fodder and feeds, meat and fats; pig iron, steel billets, ship plates and structural shapes, scrap iron and scrap steel; ferromanganese; fertilizers; and arms, ammunition and explosives.

The President announced that in controlling by license the export of these "indispensable commodities," the Government was principally concerned with the "amelioration" of food conditions which had arisen or were likely to arise in the United States before new crops were harvested.¹³ The duty of the United States in liberating surplus products above domestic needs, he stated, was to consider first the necessities of all nations engaged in war against the Central Powers. The Government also wished and intended to cooperate with neutral nations in their "difficult task of adding from our available surpluses to their own domestic supply and of meeting their pressing necessities or deficits." In considering deficits of food supplies, the Government meant only to assure itself that neutrals were "husbanding their own resources" and that supplies from the United States would not become directly or indirectly available to feed the enemy.

CONDITIONS FOR COMMERCE WITH NEUTRALS

The policy of the United States in regard to commercial relations during the war with Denmark, Norway, Sweden, and the Netherlands was set forth in a memorandum of the Exports Council submitted on July 24, 1917, to representatives of each of these countries.¹⁴

The Exports Council stated that obviously the duty of the United States was first to furnish food and supplies to the Allies and for this purpose the American people were "undertaking the utmost

¹² Document 262.

¹³ Document 263.

¹⁴ Document 265.

endeavor and self-sacrifice." They would be willing to increase their efforts in order that supplies might be sent to these four neutral countries. Therefore, to secure "arrangements as a safeguard that the sacrifices of the American people shall not have been in vain," the Exports Council hoped that the following "notes" would receive earnest consideration in each country:

1. Every possible effort should be made to stimulate domestic production of foodstuffs and other commodities, to secure all available supplies from other sources abroad, and to have rigidly regulated consumption.

2. Food resources "should at once be calculated as to their value in protein, fat, and carbohydrates," and consumption should be calculated "upon a standard intake per capita of these fundamental requisites."

3. The possession of commodities was "of the utmost importance in the entire strategy and conduct of the war," and if the American people were to part with supplies to the prejudice of their own interests, this service could not be wholly liquidated by the purchase price. Some service in return of relative value should be furnished the United States or the Allies.

4. "American protein, fat, or carbohydrates or other materials," should not be directly or indirectly exported to Germany.

5. Commodities imported from the United States should not be converted into other commodities exported to Germany or substituted for products which might be exported into Germany. However, the United States would consider any effective means by which products of the neutral countries, derived from sources not American, were "applied to purely humanitarian purposes of adding to the supply for women and children even in the enemy's territory."

6. In order that the United States might cooperate with these countries, the Exports Council desired the following information upon any commodity which it was desired to export: (1) the stock on hand, (2) the amount *en route*, (3) the amount in the United States owned by them.

7. Pending a mutual arrangement upon the above basis, exports of food to Germany must be reckoned as a depletion of the supplies available to these countries, "and it can not be expected that such depletion will be considered as part of the deficit to be ultimately supplied from the United States."

One week after this memorandum was presented, Acting Secretary of State Polk discussed with British representatives the question of exports from the United States to European neutral countries.¹⁵ He pointed out that the United States was about to formulate a policy on the subject but was "embarrassed" by not having authoritative statements on certain important points. The Acting Secretary inquired in regard to agreements of the Allies with neutral countries of Europe, as he felt that the United States should know the pro-

¹⁵ Document 266.

visions of agreements which might "be broken by our embargo before it is made complete." He made further requests for information on the subject of commerce with neutrals, stating that answers must be received before the Government "could consider and possibly recommend the drastic demands which it is understood the Allies desire us to make on the European neutrals."

Secretary Lansing cabled the Ministers in Denmark, Norway, Sweden, and the Netherlands on August 8 that no definite policy had yet been established with respect to exports from the United States to those countries. The Government was securing the views of Great Britain and France on the following questions: (1) whether trade between Germany and neutrals should be entirely prohibited; (2) whether Great Britain and France would cancel outstanding agreements with neutrals, if the United States took this position; and (3) whether the Allies were prepared to meet any military emergency that might arise as a "result of cutting off neutrals" refusing to stop trade with Germany.¹⁶

PROCLAMATION OF AUGUST 27, 1917

The authority for issuing export licenses was changed on August 21, 1917. By an Executive order of that date, which superseded the one of June 22, an Exports Administrative Board was established and authorized to grant or refuse export licenses in accordance with instructions of the President.¹⁷

The second proclamation relating to exports, issued August 27, contained two lists of articles.¹⁸ The first list, applicable to the neutral European countries and to the Central Powers, brought under control practically all articles of commerce, in fact the Exports Administrative Board later held that every article was included and required license when shipped to those countries.¹⁹ The second, applicable to all other countries, included several articles not listed in the earlier proclamation. President Wilson explained that the two lists had been prepared in the interest of expediency; that obviously there was need for a closer supervision and control of exports to European neutrals within the sphere of hostilities than to countries farther removed.²⁰

The President stated that, until required by the Secretary of the Treasury, no license would be necessary for the exportation of coin, bullion, and currency. Ten days later a proclamation provided that coin, bullion, and currency should not be exported from the United

¹⁶ Document 267.

¹⁷ Document 269.

¹⁸ Document 270.

¹⁹ Document 275.

²⁰ Document 271.

States to any country except under license of the Secretary of the Treasury.²¹

EMBARGO ON EXPORTS TO EUROPEAN NEUTRALS

The Exports Administrative Board gave instructions on August 30, 1917, for withholding all licenses to export to Denmark, Norway, Sweden, and the Netherlands, articles controlled by Presidential proclamation.²² The Board gave instructions on August 31 that no ships destined for these countries should be given bunker licenses without its approval, except passenger ships not carrying cargo.²³ One month later Acting Secretary of State Polk reported that no commodities were being exported to the Scandinavian countries except some food grains for Norway and Sweden under agreements made with them for the release of a double quantity of food grains for Belgian relief, and "some few other special isolated cases of shipments to Norway."²⁴

The general position of the United States in regard to commerce with neutral countries was set forth by Secretary Lansing on October 6.²⁵ He did not wish neutral countries to gain the impression that the United States was dictating to France and Great Britain an embargo policy hostile to neutrals. Great Britain, he stated, had urged the adoption of "even a stricter control than we have been willing to sanction." The United States was prepared to assume full responsibility for its restrictive measures, and these measures would be dictated by necessity, "with all possible regard for justice and for the feelings of neutrals."

Secretary Lansing explained that the United States aimed to prevent aid from reaching the enemy as a result of the release of American shipments to neutral countries, and to secure cooperation of neutrals in the furnishing of their products needed by the United States or the Allies. He stated that an essential factor in determining the policy of the United States was the satisfactory settlement and utilization of neutral tonnage situated in parts of the United States. The withdrawal from active service of these ships complicated the question and imposed "upon this Government the need of stricter measures to meet the situation."

The position of the United States was further explained a few days later by Secretary Lansing.²⁶ He called attention to the request made on July 24 for information regarding production, consump-

²¹ Document 274.

²² Document 272.

²³ Document 273.

²⁴ Document 277.

²⁵ Document 280.

²⁶ Document 284.

tion, and requirements of the northern neutral countries. He also called attention to the warning then given that until a mutual arrangement was made, the United States would consider their exports to the Central Powers as a depletion of the commodities which would be supplied to the neutral countries. In spite of this warning, he stated, some of the countries had continued to send large quantities of vital supplies to the Central Powers; and little information had been obtained on the needs of those countries.

The Secretary stated that there would be a continuation of the embargo policy which had been instituted. Export licenses would be denied to the northern neutral countries until the receipt of the information which had been requested. Furthermore, export licenses would be denied to them as long as they continued to give such aid to the Central Powers as converting fodder into dairy products, using oil to operate fishing craft, or using lubricating oil in manufacturing establishments working for German interests. The American people could not be expected to deny themselves the quantities of foodstuffs they desired in order that a surplus might be sent to the northern neutrals "to render easier for them the help which they are extending to our enemies." He stated that the United States was willing to send supplies to neutrals even at a sacrifice. However, in return for this service the United States must demand some guarantee that these supplies would "not be turned against us to kill our sons and prolong the war."

In negotiations held during October with representatives of the Netherlands, the Exports Administrative Board stated the position of the United States on exports for that country.²⁷ Foodstuffs, fodder, and other commodities could not be licensed when they were to be used (1) for export to the Central Powers, (2) for release of other commodities to be so exported, (3) for the production of dairy products to be so exported, (4) for the direct or indirect production of articles destined for the Central Powers, or (5) for the transport across the Netherlands of war materials of enemy origin and ownership being sent direct to the enemy army. If the Netherlands continued to supply what was "equivalent to a large part of the ration of the German Army", the United States could not furnish supplies directly or lend assistance in obtaining them.

PRINCIPLES INSISTED UPON BY PRESIDENT WILSON

A War Trade Board was established on October 12, 1917, superseding the Exports Administrative Board.²⁸ During negotiations for

²⁷ Document 283.

²⁸ Document 282.

an agreement with Norway, representatives of the War Trade Board, in cooperation with the British and French Governments, proposed to ask for a cessation of all direct or indirect exports from Norway to Germany. This proposal was brought to the attention of President Wilson. On November 15 he told the Acting Chairman of the War Trade Board that he was unwilling to insist that there should be no export from Norway to Germany as he considered that inconsistent with the principle always demanded by the United States.²⁹ He was "entirely unwilling" to go further than the principle of action already settled, "that we will supply or attempt to supply nothing to Norway except what we can be shown the people actually lack and we can not undertake to supply them with any food elements of which they deprive themselves by exportation."

President Wilson reiterated this position on November 19.³⁰ As the United States was fighting a war of principle he could not consent to demand of Norway "what we would not in similar circumstances allow any government to demand of us." The only legitimate position for the United States, he stated, was that it would not supply the deficiencies which Norway thus created if the exports were to enemies of the United States. On November 20, the acting chairman of the War Trade Board explained that while the President was unwilling to insist upon a cessation of exports by northern neutrals to Germany, he was not opposed to a limitation of exports of their own products.³¹

Four days later the Secretary of State gave instructions that in negotiations with Norway it would be desirable "to lay stress on the fact that we are acting with the Allies and frequently we are compelled to yield to them and make terms more onerous on neutrals."³²

SILK AGREEMENTS

On June 9, 1917, representatives at Paris of the United States, France, Great Britain, and Italy made the following recommendations to their Governments "in order to put an end to the exportation via Switzerland of silks and silk goods destined for the enemy Empires":³³

1. The Allied Governments should prohibit the export of silk and silk goods to neutral countries bordering upon enemy states or situated in northern Europe.

2. As the prohibition of export of thrown and reeled silks might injure Italy's principal export trade, the contracting Governments

²⁹ Document 286.

³⁰ Document 287.

³¹ Document 288.

³² Document 291.

³³ Document 255.

should fix a minimum price for these silks. An inter-Allied purchasing bureau should buy these silks to prevent a decline in the quotation below the minimum price.

3. The advance of funds necessary for this operation should be shared equally by the United States, France, and Great Britain. In case of any profit, one-fourth each of the total amount should be allotted to the United States, France, and Great Britain. The last fourth should be reserved for Italy "in view of the sacrifices accepted by Italy."

Two months later, August 9, the United States, the Allies, and Switzerland concluded an agreement which listed "apportionments of imports allotted for Switzerland for silks and silk goods" and provided that Switzerland should "immediately and absolutely" prohibit the exportation of all silk goods except as specified in the agreement.³⁴ Although this agreement was renounced by Switzerland, it was replaced by one of September 4 which was essentially the same except that the "apportionments" for Switzerland were increased. The agreement of September 4 went into effect in November.

Instructions were sent to the Ambassador in France on December 8 that when France, Great Britain, and Italy had formally adhered to the agreement of June 9 and were ready to deposit their quotas, he was authorized to deposit the quota of the United States.³⁵ On December 17, delegates of the four Governments signed a protocol to be added to the agreement of June 9.³⁶ They "took note" of the decision of the Italian Government to participate in the operation provided for in that agreement, thus dividing into four parts the expenses and risks of the operation. It was stipulated that the ratification of this protocol should comprise ratification of the agreement of June 9. The Ambassador in France reported on June 18, 1918, ratification by the Governments concerned.

AGREEMENT WITH SWITZERLAND, DECEMBER 5, 1917

The first general commercial arrangement with a neutral country was the "Memorandum of December 5, 1917, between the War Trade Board and the Swiss Government in Regard to Exports from the United States to Switzerland."³⁷ This agreement contained the following provisions:

1. The War Trade Board desired that Switzerland should receive the maximum stated quantities of certain enumerated articles.

³⁴ Document 268.

³⁵ Footnote 5, p. 610.

³⁶ Document 303.

³⁷ Document 296.

insofar as those articles were not required by the United States or the Allies, and would not, if their exportation was permitted, directly or indirectly benefit the Central Powers. This statement of the War Trade Board was not to be considered as an agreement or contract of the United States with the Swiss Government but was to be considered as a declaration of the domestic or internal administrative action of the Board. The Board did not assume the power or authority to make contracts or agreements binding upon the Government of the United States, nor did it "assume to deal in regard to the policy of the United States relating to foreign affairs."

2. The distribution of articles should be authorized by the *Société Suisse de Surveillance Economique*. This organization, set up in 1915, acted as the consignee of goods shipped to Switzerland by the Allies.

3. If Switzerland was able to obtain elsewhere supplies of the articles enumerated in the agreement, the amounts thus obtained should be subtracted from the quantities stated.

4. The importation into Switzerland of these articles was for domestic consumption. Notwithstanding the maximum quantities stated in the schedules, the amounts should be limited to genuine internal requirements, "with due regard" to the importation into Switzerland from other countries than the United States of articles which could be used as substitutes.

5. None of the articles imported from the United States and "no product, by-product, or waste and no alloy, compound, or ingredient thereof," should be directly or indirectly exported to or used for the benefit of the Central Powers, except in a few specified instances.

6. The Swiss Government should transport from the United States at cost, 1000 tons of cargo each month destined for the American Red Cross in Switzerland. If the Swiss Government should be unable to secure adequate ocean tonnage to transport supplies from the United States, aid should be extended in securing additional neutral tonnage, consistent with the tonnage requirements of the United States and the Allies. The Swiss Government would cooperate to the end that ships under Swiss charter bound for the United States should carry full cargo.

CHRISTMAS CONCESSIONS AND TEMPORARY AGREEMENTS

The War Trade Board stated on December 5, 1917, that, in view of the "growing feeling" in the northern neutral countries against the embargo, it proposed to license one or two cargoes of coffee, kerosene, or lubricating oil for Denmark, Norway, Sweden, and the Netherlands.⁸⁸ This concession "should have a good effect in these

⁸⁸ Document 297.

countries at the Christmas season" and should aid negotiations for agreements with them.

The terms of the offer, "as an expression of Christmas good wishes," were set forth in a letter of December 14 from the Acting Chairman of the War Trade Board to the Danish Minister.³⁹ The Board desired as an evidence of good will, to allow certain shipments which should benefit the Danish people. It was prepared to license "some thousands of tons of kerosene and of coffee" on ships designated by Denmark. In return Denmark should charter to the United States, at current market prices, an equivalent amount of tonnage for either two West Indian round trips or one South American round trip. These voyages would occupy about the same time required for the round trips of the Danish vessels going to Denmark.

The War Trade Board reported on January 16, 1918, that under this offer it had licensed 1,000 tons of coffee and 3,000 tons of kerosene for Denmark.⁴⁰ The Board also reported the status of arrangements for Christmas concessions to Norway, Sweden, and the Netherlands.

During negotiations in January, the War Trade Board stated that each European neutral nation was "looking to us in some measure to meet its needs and we have not supplies in sufficient quantities to meet these requirements in addition to our own" and those of the Allies.⁴¹ The United States had, "through conditions not of its own imposing, become commodity trustee for a large part of the civilized world," and was burdened with the unpleasant task of distributing an inadequate supply to many "distressed" nations. In this distribution the United States must be governed by the needs, not the desires, of those with whom it had to deal. Every available ton of shipping of all nations, the Board stated, "must be utilized both to increase the size of the too-small loaf and to speed its distribution when cut up." These results could not be accomplished without the employment in the danger zones of a substantial portion of the tonnage of all nations.

On January 23 the War Trade Board expressed its conviction that "the surest and most effective way to expedite negotiations with border neutrals" was "the continued maintenance of complete embargo".⁴² However, the Board had reached the conclusion that its attempt to maintain a strict embargo against Scandinavia and the Netherlands had been unsuccessful.

Negotiations with neutrals resulted in the signature toward the end of January of two temporary agreements. The first, with the

³⁹ Document 301.

⁴⁰ Document 310.

⁴¹ Document 313.

⁴² Document 316.

Netherlands, is treated below.⁴³ The second was concluded on January 29 by representatives of Sweden, the War Trade Board, and the British Government.⁴⁴ This arrangement provided for the exportation from the United States to Sweden of 10,000 tons of fuel oil, and 25,000 tons of phosphate rock, and for the export from Great Britain to Sweden of 25,000 bags of coffee. The Swedish Government guaranteed that neither these articles nor any products from them, would be exported from Sweden, and that no similar articles would be exported during three months from the arrival in Sweden of the articles imported under this arrangement. Before any of the above concessions were made to Sweden, at least 100,000 tons of Swedish ships were to be chartered to the United States Shipping Board and to firms nominated by the British Government for "Allied service in war zone."

LICENSE REQUIREMENTS FOR ALL EXPORTS

In 1916 the British Embassy at Washington inaugurated the practice of giving shippers of goods from the United States to Scandinavian countries, letters of assurance to facilitate the passage of their shipments through the British naval patrol. When the United States entered the war this practice was still in effect.

The Law Adviser stated in his memorandum of May 17, 1917, that the United States would undertake gradually to issue licenses for exports on the condition that they should be recognized by the British naval patrol and by British authorities as of the same value as letters of assurance.⁴⁵ The United States was unwilling to have British letters of assurance accompany an American license. The aim of the United States, he stated, was "finally to substitute complete licenses for letters of assurance; but naturally this will have to be accomplished gradually, taking, for example, certain articles at a time."

Beginning with the proclamation of July 9, 1917, a few articles became subject to export license when shipped from the United States.⁴⁶ Additional articles became subject to license under proclamations of August 27⁴⁷ and November 28.⁴⁸ Finally, all articles exported from the United States became subject to export license under a proclamation of February 14, 1918.⁴⁹

The War Trade Board explained in connection with this proclamation of February 14 and one of the same date requiring licenses

⁴³ See p. 106.

⁴⁴ Document 318.

⁴⁵ Document 252.

⁴⁶ Document 262.

⁴⁷ Document 270.

⁴⁸ Document 292.

⁴⁹ Document 324.

for all articles imported,⁵⁰ that these measures were forced upon the United States by the "critical tonnage situation and the necessity of availing ourselves of every possible means of maintaining our armies in France."⁵¹ The two proclamations subjecting to control the entire foreign commerce of the United States did not mean an embargo on exports or a prohibition of imports. They merely placed in the hands of the President the power to regulate and this power would be exercised "with the single purpose of winning the war."

Meanwhile, negotiations between the United States and Great Britain had been carried on for the discontinuance of letters of assurance. On January 10, 1918, the War Trade Board stated that it was prepared to eliminate them.⁵² On February 18 the Board informed its London representative that the following understanding had been reached with the British Embassy, for the "complete elimination" of letters of assurance:⁵³

1. The United States would recognize existing "control machinery" in neutral countries, reserving the right to propose changes in personnel, form of organization, and method of control.

2. Trade representatives of the United States and Great Britain in northern neutral European countries would "constitute themselves informal local joint committees" to supplement and supervise the workings of domestic control organizations. The War Trade Board agreed on March 6 that these committees should also include representatives of France and Italy.⁵⁴

3. The first step in an import transaction would be for the buyer to secure a permit from his local control organization. This import permit would be reported with comment by the local joint committee to an inter-Allied committee at London.

4. The seller would then apply for an export permit. The exporting country would pass on the question of conservation and the consignor and if these tests were successfully passed, the application would then be referred to the inter-Allied committee at London.

5. The inter-Allied committee would decide whether importation could be permitted in view of rationing agreements and whether the consignee and ultimate purchaser were satisfactory.

6. The inter-Allied committee to be utilized for the time would be the existing contraband committee; whether a new inter-Allied blockade committee should be created would be subsequently considered.

7. The War Trade Board's representative at London would cable the recommendation of the committee to the Board, which expected to follow that recommendation. Although the Board reserved the right to overrule the London decision, this reserved right would not be exercised without previous exchange of views with Great Britain.

⁵⁰ Document 325.

⁵¹ Document 326.

⁵² Document 309.

⁵³ Document 327.

⁵⁴ Document 333.

A similar practice would be adopted by Great Britain, and the War Trade Board's representative on the committee would be given opportunity to scrutinize British applications to export. No license would be issued over his objection without previous exchange of views with the United States.

8. Rations would not be apportioned among the several co-belligerents; the buyer would be entirely free to select his own market.

9. When the neutral buyer desired to purchase in another neutral country, his import permit "may be submitted through local committee to London Committee with name of consignor and London Committee in such cases may pass on the transaction in its entirety and its decision will be final."

10. The War Trade Board would license freely, "but with discretion," shipments under \$100 in value, without reference to London.

11. This general arrangement would apply to shipments to Denmark, Norway, Sweden, the Netherlands, Faroe Islands, Iceland, and Greece.

12. The arrangement should be inaugurated immediately in the case of Iceland, and "also in respect of Holland and Sweden as soon as export of non-essentials begins."

Two days later, February 20, the War Trade Board announced that, as Sweden and the Netherlands had concluded temporary agreements with the United States, the Board would consider applications for the export to these countries of certain listed articles.⁵⁵ The list of articles was "a common one" agreed to by France, Great Britain, and the United States. The inclusion of an article in the list did not necessarily mean that its exportation would be freely permitted by any or all of the nations as "principles of conservation will be applied as heretofore."

On May 4 the War Trade Board stated that it had approved the extension to Denmark of the "relaxation of the embargo on non-essentials."⁵⁶ Norway was not considered in this connection in view of the fact that an agreement had been concluded with that country.⁵⁷

The Board reported on May 10 its disagreement with a plan for relaxing the embargo in favor of pro-Ally firms, as it would "seriously weaken the force of our embargo."⁵⁸ As the War Trade Board had already agreed to the principle of permitting imports of non-essentials, additional relaxation would operate primarily to release essentials. The adoption of the plan would be the practical lifting of the embargo, the Board stated, leaving exports to be controlled by a white list rather than by a black list. The Board felt that the creation of such a white list would be a very difficult problem and likely to create commercial jealousy among the Associated Governments.

⁵⁵ Document 329.

⁵⁶ Footnote 23a, p. 737.

⁵⁷ See p. 108.

⁵⁸ Document 353.

ESTABLISHMENT OF ALLIED BLOCKADE COMMITTEE

The War Trade Board reported on January 30, 1918, that it was formulating "a comprehensive plan for the control and regulation of exports to northern neutrals" and that this involved fixing the constitution and powers of an inter-Allied blockade committee.⁵⁹ In the arrangement of February 18 for the elimination of letters of assurance it was stated that whether a "new inter-Allied blockade committee" should be created would be subsequently considered.

On March 1 the War Trade Board's representative at London recommended that a committee should be set up but suggested that it be called an "inter-Allied export control committee as a more palatable name to the northern neutrals." The London representative of the Board was requested on March 6 to state in detail the precise functions for an inter-Allied export control committee.⁶⁰ He did not report until March 20 when he stated that he had met at the British Foreign Office with representatives of Great Britain, France, and Italy to facilitate the exchange of views on blockade matters.⁶¹ They had decided to meet regularly once a week and to constitute themselves into an Allied blockade committee which "would have no powers except as being the means of deciding blockade matters on which they had received specific instructions from their governments." The War Trade Board's representative was informed on March 26 that the creation of the Allied Blockade Committee with the functions he indicated, was approved.⁶²

On April 2 the Department of State received the text of a communication which had been sent by the British Foreign Office to British Ministers at The Hague, Copenhagen, Stockholm, and Christiania for distribution to the American, French, and Italian Ministers.⁶³ This communication stated that the Allied Blockade Committee had been established at London with representatives of the United States, France, Italy and Great Britain, to supervise, subject to directions from their Governments, general questions connected with blockade.

It was also stated in this communication that the local joint trade committees, mentioned in the plan for eliminating letters of assurance, would vary in the several capitals. The "essential thing" was that "close cooperation between the four Allies on blockade matters should be insured." The function of the committees should be advisory and not executive, except to the extent that executive functions might be delegated by the Allied Blockade Committee. Spe-

⁵⁹ Document 319.

⁶⁰ Document 333.

⁶¹ Document 336.

⁶² Document 340.

⁶³ Document 343.

cifically, it would be the duty of the local committees: (1) to arrange with local import organizations to be promptly informed of all applications for import; (2) to receive and transmit to London "all guarantees, with comments whenever desirable"; (3) to watch the working of local import organizations and to report whether these organizations were conforming with undertakings against reexport, etc.; (4) to ascertain, in case agreements were signed, that the goods which the Allies were entitled to receive were supplied in the quantities and at the times fixed; (5) to study general trade conditions with a view to making recommendations as to methods by which the blockade might be rendered more effective; (6) to investigate and report on all statistical questions, and on all questions concerning consignees or local trade conditions which might be referred to them.

These duties of the local trade committees were similar to duties suggested by the War Trade Board on March 26, and the Board on April 8 informed its London representative that it approved this British statement of the functions of the committees.⁶⁴

The War Trade Board explained, six months later, its understanding of the status of these committees. They were in the nature of subcommittees of the War Trade Board and the similar blockade organizations of the Associated Governments. They were not subordinate to or dependent upon the Allied Blockade Committee. Their relations to it should be of the closest character. It was expected that the inter-Allied trade committees, recognizing the central position of the Allied Blockade Committee and its general oversight over the entire northern neutral situation, would be inclined to concur in its recommendations. At the same time the Allied Blockade Committee did not assume to direct the inter-Allied trade committees or to compel acceptance of its views unless these were expressly concurred in by the Associated Governments.

TAKING OVER OF NETHERLAND SHIPS

On March 20, 1918, President Wilson proclaimed that "the imperative military needs of the United States require the immediate utilization of vessels of Netherland registry, now lying within the territorial waters of the United States."⁶⁵ The President therefore authorized the Secretary of the Navy "to take over on behalf of the United States the possession of and to employ all such vessels" as might be necessary for war purposes. Owners of the vessels should receive full compensation, in accordance with the principles of international law.

⁶⁴ Footnote 42, p. 754.

⁶⁵ Document 337.

In a public statement, the President explained the reasons for his action.⁶⁶ He first outlined the terms of the temporary agreement of January 25: ⁶⁷ (1) certain Netherland ships in ports of the United States were to be chartered to the United States for ninety days; (2) up to 150,000 tons of these ships were to be employed in Belgian relief service and in service for Switzerland on safe conduct to France; (3) for each vessel sent to the Netherlands in Belgian relief service a corresponding ship should leave the Netherlands for the United States; (4) two Netherland ships were to leave the United States for the Netherlands with cargoes of foodstuffs and two ships of similar tonnage should be sent in exchange from the Netherlands and placed at the disposal of the United States for ninety days.

The President stated that immediately after the conclusion of this agreement, the Netherland Government declared that it was unwilling or unable to carry out its terms. Chartering of ships for Swiss relief was postponed as "the Netherland shipowners feared lest their ships should be destroyed by German submarines." In respect to Belgian Relief the Netherland Government was unable to comply with the agreement because the German Government would "forcibly prevent the departure" from the Netherlands of the corresponding ships. The Netherland Government even felt unable to secure the two cargoes of foodstuffs as the German Government "threatened to destroy" the equivalent Netherland tonnage which was to leave the Netherlands for the United States.

President Wilson believed that German threats would prevent any permanent agreement and force the Netherlands to violate any temporary agreement. Since coercion did "in fact exist," the President stated that no alternative was left to the United States but to accomplish through the exercise of indisputable sovereign rights, that which was "so reasonable that in other circumstances we could be confident of accomplishing it by agreement."

NEGOTIATIONS AND AGREEMENT WITH SPAIN

The Secretary of State was informed in November 1917 that it was extremely important for the American Expeditionary Force to receive supplies from Spain. Secretary Lansing replied on November 22 that the War Trade Board would use the "embargo regulations as a means of securing necessary concessions from Spain"; that the Board was prepared to furnish commodities to Spain in exchange for supplies needed by the American Army in France.⁶⁸ On December 1 the Secretary stated that no licenses were being granted for cotton, oils, and many other commodities

⁶⁶ Document 338.

⁶⁷ Document 317.

⁶⁸ Document 290.

for Spain.⁶⁹ Everything was being held up that could be held up "without giving impression of complete embargo" and the Spanish Ambassador at Washington had been informed that an understanding would be necessary before trade could be completely reestablished. Three weeks later Secretary Lansing informed Ambassador Willard in Spain that the embargo upon exports from the United States to Spain was becoming "embarrassing" and should be removed unless it was absolutely necessary for the purpose of obtaining supplies for American and Allied armies in France.⁷⁰

Ambassador Willard was instructed on January 2, 1918, to begin negotiations for a comprehensive trade agreement between the War Trade Board and the Spanish Government providing for reciprocal exchanges of permits to export between the United States and Spain.⁷¹ He was authorized to inform the Foreign Office that on account of the "growing needs" of the United States and the Allies, there would be an enforcement of the embargo against the exportation of articles named in the President's proclamation of August 27, 1917.⁷² No exceptions would be made except in exchange for reciprocal permits.

The Secretary of State informed Ambassador Willard on January 8 that the War Trade Board was withholding licenses for practically all commodities destined for Spain.⁷³ There were more than 2,000 applications on file for licenses which the Board was withholding. The Secretary stated that the strict embargo would be maintained if necessary but he desired to know whether the Ambassador could "bring sufficient pressure to bear" by withholding licenses for only cotton and oil and allow the Board to grant licenses for all other commodities. The Ambassador replied that if any licenses for embargoed articles were issued it "would be fatal to pending negotiations."

On February 2 Secretary Lansing sent the Ambassador instructions in regard to tonnage.⁷⁴ He strongly felt that in view of the policy of including in all negotiations for rationing the northern neutral countries their chartering to the United States a part of their shipping tonnage, the Ambassador should include tonnage in discussions with Spanish representatives. The tonnage of Spain was about 1,000,000 tons dead-weight. Secretary Lansing proposed that, after deducting 300,000 tons required for Spain's own use, the balance should be chartered to the United States. He stated that

⁶⁹ Document 295.

⁷⁰ Document 304.

⁷¹ Document 305.

⁷² Document 270.

⁷³ Document 308.

⁷⁴ Document 321.

a definite requirement of the negotiations should be the chartering of this tonnage. Unless this was possible he preferred to see the basis of the permanent agreement postponed until Spain felt more definitely the need of coming to an agreement with the United States.

Negotiations were continued, however, and an agreement was concluded on March 7, 1918, which did not provide for the chartering of tonnage to the United States.⁷⁵ Under this agreement, the two countries granted and accepted "the following mutual concessions," subject to the observance of an agreement made on the same date between France and Spain:

1. Spain would permit the exportation, without restriction, of pyrites, lead, zinc, copper, and minerals of every kind, and manufactured wool; permit the exportation of enumerated articles to the extent permitted by national requirements and international obligations; and permit the immediate exportation of designated amounts of certain articles for the American Expeditionary Force.

2. The United States would permit the exportation of articles required by Spain, to the extent that they could be spared from the needs of the United States and the Allies; also the immediate exportation of certain enumerated articles.

3. Each nation would provide the transportation by water of its respective purchases, and at its own risk.

4. When the United States should have satisfied its specified requirements for the American Expeditionary Force, the embargo would not further be enforced against the exportation to Spain of products of the United States, and against Spanish products to the United States or to France for the needs of the United States.

5. Re-exportation of articles covered by the agreement should not be permitted to any other country than the one designated at the time of the granting of the export permit, without the consent of the United States or Spain.

6. For two months each country should afford to vessels of the other touching at its respective ports, such coaling facilities as might be possible. Meanwhile, negotiations were to begin for a shipping agreement between the United States and Spain.

Although negotiations began in May, no shipping agreement was concluded.⁷⁶

AGREEMENT WITH NORWAY

The United States followed the policy of including in negotiations for rationing the northern neutral countries their chartering to the United States a part of their shipping tonnage.⁷⁷ In the case of Norway an agreement was reached on April 20 between the United States Shipping Board and Norwegian Shipping Commissioners

⁷⁵ Document 334.

⁷⁶ See p. 127.

⁷⁷ Document 321.

providing for chartering Norwegian ships to be employed by the Shipping Board. Ten days later an agreement relating to exports from the United States to Norway was concluded between the War Trade Board and the Norwegian Government.⁷⁸ This agreement contained the following provisions:

1. The War Trade Board, whose powers were administrative and pertained "wholly to the Nation's domestic or internal affairs," agreed to license the exports or facilitate the obtaining of certain enumerated articles, insofar as these articles were not required by the United States or the Allies, and would not be exported directly or indirectly to the Central Powers.

2. The War Trade Board would license freely bunker fuel and ship stores to vessels transporting these articles to Norway from the United States or other countries. The Board had been assured by the Allies, with which it was "acting in full accord in these matters," that subject to the exercise of the right of visit and search, the Allies should not hinder or seize these vessels.

3. The quantities of articles to be licensed by the War Trade Board should be determined by Norway's actual internal requirements, "with due regard" to existing stocks and to the importation into Norway from countries where the license of the Board was not required, of like articles or articles which could be used as substitutes. The Norwegian Government would furnish the War Trade Board with statistics in regard to existing stocks of all enumerated articles and monthly statistics in regard to all exports from or imports into Norway.

4. Articles imported into Norway under this agreement should not be exported by Norway to other than "Allied" destination, and no articles released by such importation be exported to other than "Allied" destination.

5. No articles "obtained, grown or produced, in whole or in part, by the use of any implements, machines, machinery, coal, gasoline, kerosene, oils, lubricants or other auxiliaries" thereafter imported from the United States or the Allies, or whose importation should be facilitated by the United States or the Allies, should be directly or indirectly exported from Norway to the Central Powers. Furthermore, these articles should not be exported to a neutral country until Norway had procured an agreement from the neutral country that the articles should not be directly or indirectly re-exported to the Central Powers.

6. In consideration of the fact that Norway's requirements of necessities would be secured by the United States and the Allies, and "in order to give the United States and the Allies opportunity

⁷⁸ Document 349.

to buy considerable quantities of Norway's exportable surplus," the Norwegian Government agreed to certain specified restrictions of exports to the Central Powers.

7. "By way of compensation for the allotment of Norway's requirements," the Norwegian Government would permit the export to the United States or the Allies of specified amounts of chemical products, metallurgical products, minerals, wood and manufactures of wood, and fish and fish products. Norway would also permit the export to the United States and the Allies of any other commodities which could be spared.

ALLIED AGREEMENTS WITH ICELAND AND SWEDEN

An agreement between the Allies and Iceland was concluded at London on May 23, 1918. Although the War Trade Board was not a party to it, the London representative of the Board was present or represented during negotiations. He reported that "the main object of the agreement" was to keep supplies from enemies.⁷⁹

The agreement provided that the Allies should have an option on Iceland's entire exportable surplus of wool, fish, and all other products, except some specified articles which might be exported to approved consignees. It further provided that the Allies should grant facilities for the importation into Iceland of a specified lot of rations, "all contingent on conservation" except a few items which were guaranteed. In this excepted list were cereals and petroleum which the United States was to supply.

The War Trade Board agreed to purchase some of the wool and to grant licenses for the export of cereals and petroleum as provided in the agreement. It also agreed to license the export of other articles enumerated in the ration list, insofar as these articles were not required by the United States or the Allies.

Representatives of the War Trade Board took part with those of Great Britain, France, and Italy in commercial negotiations with Sweden but they did not sign the resulting financial, shipping, and trade agreement. The Board informed its London representative on May 3, 1918, that it was impracticable for the United States to become a party because of certain "technical considerations involving formalities in the execution and confirmation of agreements of the scope of the proposed arrangement."⁸⁰ However, licenses would be issued in accordance with the agreement. On May 29 the agreement was signed by representatives of the Allies and Sweden. It contained a ration list for Sweden and provided for the chartering of four

⁷⁹ Document 354.

⁸⁰ Document 350.

hundred thousand tons of Swedish ships, half of which were to be chartered to the United States.

The relation of the War Trade Board to this agreement was set out in a letter from the Chairman to the Secretary of State, cabled on June 26 for delivery to the Swedish Government.⁸¹ The Board would grant licenses in accordance with the terms of the agreement and in particular would grant export licenses covering enumerated articles insofar as these articles were not required by the United States or the Allies and would not directly or indirectly be exported to the Central Powers.

During negotiations for the agreement with Sweden, the Associated Governments considered making an arrangement to purchase approximately two and one-half million tons of Swedish iron ore in order to keep it from the Central Powers. The War Trade Board had stated on April 8, 1918, that it doubted the advisability of the proposed purchase.⁸² Depriving Germany of the amount of ore mentioned apparently would not have any effect for several years, the Board stated, in view of the surplus which Germany had undoubtedly acquired and in view of the fact that ability to accumulate this surplus indicated that the rate of consumption had not much exceeded the amount Germany would continue to get under the proposed agreement with Sweden. Thus any benefit to be derived by the Associated Governments depended on the prolongation of the war for several years and on their ability to renew the iron ore division on the same or more favorable terms during these years. The Board doubted that there could be a renewal of the agreement covering this ore at a time when it would operate to inconvenience seriously Germany's operations. Furthermore, as the United States would be unable to utilize more than a small portion, if any, of the proposed purchase, it was not willing to participate with France and Great Britain in the purchase of the proposed allotment. If, however, these two countries felt that the purchase was desirable, the United States was prepared to finance them to the extent of one-third of the entire purchase price.

The British Embassy later pointed out to the War Trade Board that the offer to finance France and Great Britain to the extent of one-third of the cost of the iron ore would throw on those two countries the burden of any loss that might ultimately result through the necessity of disposing of ore at a price below that fixed in the contract. The Board therefore assured the British Embassy of the willingness of the United States to bear also one-third of any loss.

⁸¹ Document 361.

⁸² Document 345.

On May 27 the War Trade Board stated that there were legal objections which might make it impractical for the United States to make a loan to the Allies to cover one-third of the cost of the iron ore, since the loan would have to be coupled with an understanding to share one-third of the ultimate loss.⁸⁴ Therefore, the United States might "be compelled to purchase outright one-third of the ore."

The agreement, two days later, between the Allied Governments and Sweden, provided that the Associated Governments should purchase two million tons of Swedish iron ore. In view of the fact that the Associated Governments were willing to purchase this ore, the Swedish Government agreed that the total exports of Swedish ore should not exceed 6,000,000 tons per annum, and that the quantity exported directly or indirectly to the Central Powers should not exceed 3,500,000 tons per annum.

By an Executive order of June 29, 1918, the President directed the allocation of funds for payment of one-third part of the purchase price of 2,000,000 tons of Swedish iron ore.⁸⁵ On November 27 another Executive order provided that the moneys accruing to the United States from the sale or resale of this Swedish iron ore might be used as follows: (1) to pay one-half the purchase price of 245 tons of molybdenum concentrates in Norway; (2) to pay one-third the purchase price of 41,000 tons of low phosphorous iron ore in Sweden; and (3) to pay the share properly payable by the United States for any other commodity purchased by the British and French Governments "for purposes connected with the blockade of Germany and her allies."⁸⁶

AGREEMENTS WITH DENMARK

During negotiations for a trade agreement, the War Trade Board stated to the Danish Minister that Denmark had nothing but tonnage to offer in compensation for supplies required from the United States.⁸⁷ The Board could not consider any proposal that did not provide for the chartering of tonnage to the United States for the duration of the war. Furthermore, part of this tonnage "must go into the war zone." Denmark accepted these terms, and agreements regarding tonnage and supplies were concluded on September 18, 1918.⁸⁸

⁸⁴ Document 355.

⁸⁵ Document 362.

⁸⁶ Document 426.

⁸⁷ Document 332.

⁸⁸ Documents 392, 393, 394.

The tonnage agreement, between the War Trade Board and the Danish Special Shipping Committee, contained the following provisions:

1. The Danish Special Shipping Committee would charter to the United States Shipping Board 265,000 dead-weight tons of shipping, and to Great Britain, under an agreement to be simultaneously executed, 200,000 dead-weight tons.

2. About 80,000 dead-weight tons of the ships allotted to the United States were to be chartered to the Belgian Relief Commission or the Swiss Government. The balance would be chartered to the United States Shipping Board, about one-half of which would be used in or outside the so-called German submarine danger zones, and about one-half outside the danger zones. These vessels should not be employed for the transport of troops nor in European ore trade.

3. Vessels time chartered to the United States, the Belgian Relief Commission or the Swiss Government, and those employed in overseas trade for Denmark's benefit were to sign bunker regulations of the War Trade Board.

4. Vessels allotted for Danish needs should carry full cargoes, as far as possible, in both directions.

5. The United States and Great Britain would give necessary instructions to Danish vessels with regard to routes and time of sailing, which Danish masters would be instructed by their owners to follow.

6. "Danish vessels trading under time charter to the United States or Great Britain in the trades to and from Europe and the Atlantic islands" would, as far as possible, be protected by Allied naval vessels, if the regulations of the American and British naval authorities were observed.

The trade agreement of September 18, 1918, was between the War Trade Board and the Merchants' Guild of Copenhagen and the Danish Chamber of Commerce. It provided as follows:

1. The War Trade Board would license the export or facilitate the obtaining of certain enumerated articles, the quantities to be limited to Denmark's actual internal requirements.

2. The War Trade Board would grant bunker licenses to vessels transporting these articles to Denmark from the United States or other countries. The vessels should not be hindered or seized by the United States or the Allies, subject however to the exercise by the Allies of the right of visit and search.

3. Articles imported into Denmark under this agreement should not be directly or indirectly exported to the Central Powers and no articles released by the importation should be exported to the Central Powers. Furthermore, the articles should not be used in the production of any commodity to be exported to the Central Powers.

4. No articles should be exported by Denmark to another neutral country for direct or indirect export to the Central Powers, and no articles should be exported to another neutral country when the

exportation would serve to release for export to the Central Powers any article in that neutral country.

In an exchange of identic notes between the Chairman of the War Trade Board and the Danish Minister the following statements were made in regard to the trade agreement: (1) Denmark would receive at ports of origin the enumerated articles, insofar as they were not required by the United States or the Allies. (2) Denmark was free to continue the export to Germany of stated quantities of listed articles. No other articles were to be exported to Germany except as expressly provided for in the agreement. (3) Denmark would permit export to the United States and the Allies of any articles which could be spared.

NEGOTIATIONS WITH THE NETHERLANDS

The Minister in the Netherlands was given instructions on August 27, 1918, in regard to a proposed agreement between the War Trade Board and the Netherlands Oversea Trust.⁸⁹ Secretary Lansing stated that the United States did not desire to control the movement of ships and commodities except through the control of American ships, through the control of commodities coming from or to the United States, or through the prevention of trade with the enemy by persons in the United States, "leaving out of consideration for the moment measures of prevention by maritime capture." For these reasons an agreement should not provide for the control of ships that did not touch at ports where the United States furnished or controlled bunkers. Furthermore, it should not provide for the control of commodities which did not come from or to the United States. A broader control covering commodities and ships not coming under the territorial jurisdiction of the United States might subsequently be secured "by voluntary agreement" with the Netherland Government in return for concessions which the United States might make as part of a rationing agreement.

One month later the War Trade Board stated that it did not wish to take a position with regard to the control of exports between neutral countries which the Netherlands could call inconsistent with the position expressed by the United States when neutral.⁹⁰ The Board desired only to control exports from the United States or exports carried by bunkers furnished by the United States.

During negotiations with the Netherlands, Secretary Lansing stated that the United States could not agree to the export to the

⁸⁹ Document 381.

⁹⁰ Document 400.

Central Powers of articles which were of "prime necessity or of military importance" to the enemy.⁹¹ He recognized, however, that the Netherland people were in a difficult position because they were dependent on Germany for certain materials, and was prepared to consider suggestions for reducing this dependence. The United States desired that its resources which were not needed for war purposes, should be made available "under proper safeguards" to neutral countries in order to assist them in maintaining their economic life.⁹² The "sincerity of this desire" had been evidenced by agreements concluded by the War Trade Board with authorities of various neutral countries whereby these countries were obtaining essential supplies from the United States and elsewhere. The United States hoped that an arrangement could be reached by the War Trade Board with Netherland authorities similar to those reached with other neutrals.

The Secretary of State further explained his attitude toward the Netherland negotiations in a communication of October 1 for the Netherland Government.⁹³ He had been informed that the Netherland people could secure German coal only upon harsh terms which included the export to Germany of large amounts of foodstuffs which the Netherland people themselves required. Although there was a very distinct shortage of coal in the United States, the American people would make "increased sacrifices for the sake of a friendly people" and offered to place at the disposal of the Netherlands at least 100,000 tons of coal a month. This coal would be delivered at an Atlantic port to ships sent from the Netherlands. The only condition attached to this proposal was that the Netherlands should cease exporting foodstuffs to Germany. Secretary Lansing recognized that the acceptance of this offer would require the service of a substantial number of the Netherland ships then idle in Netherland European ports. To permit the lifting of other commodities with the least possible consumption of tonnage, he was "prepared to discuss" with the Netherland Government the supplying of a substantial part of Netherland cereal requirements from the United States.

The Netherland Government replied that the offer would be considered in the general negotiations for an agreement with the Associated Governments.

The War Trade Board stated on October 22, that in negotiations with the Netherlands, "the objective of the Associated Governments should be the entire cessation of all exports to Germany and the

⁹¹ Document 390.

⁹² Document 396.

⁹³ Document 401.

making available to them of Holland's entire exportable surplus."⁹⁴ As the enemy had evacuated a large part of Belgium, the Board considered increasingly important that the Netherland surplus of vegetables and dairy products should be made available for the civilian population of Belgium. The policy of the Associated Governments, according to the War Trade Board, should be to secure the utilization of Netherland tonnage to transport fertilizers and feeding stuffs to the Netherlands for the production of foodstuffs which otherwise would have to be imported by ships controlled by the Allies. If this program could be carried out it would be necessary for the Allies to supply all of the essential import requirements of the Netherlands. The Board believed that the Allies could supply all of these requirements, except possibly iron and steel, and it was possible that even these could be spared, in view of the very great importance of making the Netherlands entirely independent of Germany.

On November 12 the War Trade Board stated that "in view of recent developments", it was willing to concur in exports from the Netherlands to Germany.⁹⁵

AGREEMENTS WITH THE NETHERLANDS

An agreement was reached on November 25, 1918, between the War Trade Board, the British, French, and Italian Governments, and the Netherland Government.⁹⁶ The first four parties were referred to as the "Associated Governments" in the agreement, which contained the following provisions:

1. As soon as employment was reasonably assured all Netherland shipping should at once resume sailing. The Netherland Government should not request the return of Netherland shipping then employed by the Associated Governments until the latter had arrived at a satisfactory agreement with Netherland ship owners regarding the employment of the shipping by the Associated Governments.

2. Subject to their own requirements, the Associated Governments would facilitate the importation into the Netherlands of specified amounts of rations. Importation was subject to the ability of the Netherland Government to transport the rations with the tonnage at its disposal.

3. As the Netherland Government considered it necessary to make certain exports to the Central Powers in order to obtain essential supplies from them, the Associated Governments would not object to the export of a limited list of commodities set out in the agreement.

4. The Netherland Government would continue to facilitate exports to the Associated countries, Belgium, and evacuated districts of France.

⁹⁴ Document 408.

⁹⁵ Document 423.

⁹⁶ Document 425.

5. The Netherland Government would recognize the agreement to be made between the Netherlands Oversea Trust and the Associated Governments, and would effectively prohibit exports to the Central Powers of all goods imported into the Netherlands under that agreement.

6. The obligations of the War Trade Board were limited to granting licenses for and facilitating the export of articles enumerated in the ration list, insofar as they were not required by the United States or the Allied countries.

The Netherlands Oversea Trust agreement was signed on December 17, 1918, by representatives of the British, French, and Italian Governments, referred to as the Associated Governments.⁹⁷ This agreement was adhered to by the War Trade Board, whose obligations were limited to granting export licenses and facilitating exports from the United States, subject to the reservation that, insofar as it became a party to the agreement by adherence, the Board did so "severally and not jointly." The agreement provided:

1. Vessels carrying goods consigned to the Trust and approved by the Associated Governments before shipment, would not be detained for reasons connected with the goods except for purposes of examination. The War Trade Board stated in its letter of adherence that so far as the Board was concerned this examination of ships should relate only to examination in ports of the United States.

2. Consignments of goods addressed to the Trust from any place of origin, excepting Denmark, Norway, and Sweden, should previously be submitted for approval by the Associated Governments, except goods covered by letters of assurance and goods covered by export licenses of one of the Associated Governments. The Board agreed with the Trust on a paragraph in place of this which was essentially the same except that the expression "Associated Governments" was changed to "Associated Governments and the Board."

3. The Trust should not allow delivery of consignments to persons or firms whose names were on the published or confidential black lists of the Associated Governments. The Board stated in its letter of adherence that this article obligated the Trust with respect to the Board only to the extent of recognizing its enemy trading list and confidential lists.

4. Goods imported into the Netherlands from overseas should be consigned to the Trust, which guaranteed the "home consumption" of the goods and all articles which might be manufactured or produced from them. The Trust undertook "to control the ultimate destination of all such goods."

⁹⁷ Document 429.

5. Ships sailing from Netherland home ports with manifests certified by the Trust would not be detained, on the ground that they were carrying goods of enemy origin or enemy ownership, longer than was necessary for the examination and verification of their papers, provided they called for examination at a port to be previously notified to the Trust. The War Trade Board stated that its adherence to the agreement did not include an adherence to this paragraph which should be considered as eliminated so far as the Board was concerned.

CHAPTER VII

CONTROL OF BUNKERS AND IMPORTS

GENERAL BUNKER POLICY

The Law Adviser's memorandum of May 17, 1917,¹ referred to in the preceding chapter,² made clear that the economic cooperation of the United States with the Allies was to be based on the right of the United States to control its exports. In that memorandum several statements were made in regard to the bunker policy to be followed during the war.

1. The United States was unwilling to force neutral ships to call at British ports for examination. However, outgoing ships might be allowed to carry only enough bunkers to reach a British examination port.

2. The United States was unwilling to force neutral ships into the danger zone in service for the United States or the Allies, further than to insist that neutrals use their ships to carry their own supplies to and from belligerents.

3. The United States was willing to "induce" neutral ships to carry supplies between neutral countries.

4. The United States was willing to prevent its coal, fuel oil, and ship's stores from being used in trading with the enemy.

5. The United States would not refuse bunkers to persons on account of enemy nationality or association; there should be reasonable ground for believing that the coal would be used for the direct benefit of Germany.

6. The United States was willing to make the supply of bunkers to neutral ships conditioned upon their agreeing not to transport enemy subjects or agents. As the supply of bunkers was a favor, the ships should not carry persons "likely to be inimical to the interests of the United States."

7. The United States was prepared to agree with the Allies upon a "coal white list" in accordance with the above statements.

One week later the Law Adviser informed a British representative of Secretary Lansing's "tentative view" that the most feasible method for the United States to exercise bunker control was to prevent American coal from being used to evade the control then exercised by Great Britain.³ To accomplish this end, the United States would limit the supply of American cargo coal to persons on the

¹ Document 252.

² See p. 89.

³ Document 254.

"coal white list" and would prohibit neutral ships "from bunkering for the round trip or farther than the next suitable bunkering port."

The President's proclamation of July 9, 1917, provided that licenses were required for the exportation from the United States of "coal, coke, fuel oils, kerosene and gasoline, including bunkers."⁴ Under the proclamation of August 27 licenses were required for all articles exported from the United States to neutral European countries.⁵ On August 30 the Exports Administrative Board gave instructions for the withholding of all licenses to export to Denmark, Norway, Sweden, and the Netherlands.⁶ One day later it issued instructions with regard to bunker licenses: (1) Ships destined for Denmark, Norway, Sweden, and the Netherlands should not be granted licenses without the Board's approval, except passenger vessels not carrying cargo. Ships destined for Danish and Dutch colonies should be granted licenses except that the Board must approve applications when the destination was Iceland or the Faroe Islands. (2) Ships destined for South America and flying the Danish, Norwegian, Swedish, Netherlands, or Spanish flag, should be granted licenses provided they agreed to return direct to the United States. Cases of ships flying these flags, not destined for South America or not returning direct to the United States, should be referred to the Board. (3) Ships destined for Greece and Spain should be granted licenses for the outward voyage only.⁷

The Exports Administrative Board announced on September 29, that clearance would be refused sailing vessels destined to go through the war zone even if the goods on board had already been licensed.⁸ Licenses would be granted in the future for shipments to European countries, the Board stated, only if the goods were to be shipped on a vessel other than a sailing vessel. The reason for this action was that steamships could navigate the war zone with less danger than slow craft, "and sailing ships, if used in safer waters, would to an extent release steam vessels being now used in such waters".

On October 5 the Exports Administrative Board announced that in formulating its policy with regard to granting bunkers to neutral vessels, it was "actuated solely by the desire to prevent commodities from going to border neutrals for export to Germany."⁹ In accordance with this policy the Board would not furnish bunkers to a ship bound for a border neutral country and carrying a cargo

⁴ See p. 92.

⁵ See p. 94.

⁶ See p. 95.

⁷ Document 273.

⁸ Document 276.

⁹ Document 278.

which might benefit the enemy, even though the cargo had originated in another country. While not proposing to prevent trade between the border neutrals and other neutrals, the Board was "in a position to state" that American coal should not be used on a voyage which would result in supplying the enemy with foodstuffs or other commodities.

The Board stated that numerous cases had been presented to it of ships touching at a port of the United States *en route* to a border neutral and carrying a cargo which did not originate in the United States, but which was destined for a border neutral and would undoubtedly accrue to the benefit of the enemy. These cases caused the Board "serious embarrassment". To avoid it the Board had ruled that a ship *en route* to non-European neutrals which touched at a port of the United States for bunker coal, should not be allowed coal for the voyage unless it would agree to return to the United States with a cargo which would be approved by the Board or which was destined for a country other than a border neutral.

Four days after this statement was issued the Exports Administrative Board authorized instructions for collectors of customs.¹⁰ These instructions provided that under the law of June 15, 1917,¹¹ no ship should be given clearance without a license for cargo, bunker fuel, sea stores and ship's stores, to the extent they were subject to license under the proclamation of August 27,¹² even though they were not taken on board at a port of the United States. The fact that they had been brought into a harbor of the United States was "sufficient to subject them to the operation of the statute."

RULES FOR GRANTING BUNKER LICENSES

Rules for the granting of bunker licenses were issued by the War Trade Board on January 19, 1918.¹³ Under these rules no vessel should be allowed to clear from a port of the United States or its possessions, without having secured a bunker license from the War Trade Board covering all bunker fuel aboard at the time of sailing, and port, sea and ship's stores and supplies. No application should be approved for bunkers for any neutral vessel unless the person controlling it should have filed with the War Trade Board the names of all vessels controlled by him, together with the names of their masters; and unless he should enter into an agreement to comply with the following regulations which if violated by any one of his vessels might involve the refusal of bunkers to all.

¹⁰ Document 281.

¹¹ See p. 91.

¹² See p. 94.

¹³ Document 315.

1. No vessel should be chartered to a subject of any of the Central Powers, or to any person not acceptable to the War Trade Board.
2. No vessel should trade with a port of any of the Central Powers, nor should a vessel aid another employed by or for the Central Powers.
3. No vessel should carry a subject of any of the Central Powers without the consent of the Department of State.
4. No vessel should carry a cargo coming from or through or destined for any of the Central Powers.
5. Every vessel proceeding from or to the United States, to or from Denmark, Norway, Sweden, the Netherlands, Iceland, the Faroe Islands, Spain, or to or from any neutral port in the Mediterranean Sea, should call for examination as might be directed by the War Trade Board.
6. No vessel should carry from a port outside the United States to a European port, cargo not previously approved by the War Trade Board or the Inter-Allied Chartering Executive.
7. No vessel should carry cargo from Denmark, Norway, Sweden, the Netherlands, Iceland, the Faroe Islands, Spain, or Switzerland to any ports unless the cargo was accompanied by a certificate of non-enemy origin.
8. No vessel should carry goods consigned "to order". However, this provision should not apply to goods shipped from the United States or its possessions to countries other than Denmark, Norway, Sweden, the Netherlands, Iceland, the Faroe Islands, Spain, and Switzerland.
9. No vessel should carry coal or mineral oil, including naphtha and gasoline, unless the consignee was approved by the War Trade Board.
10. The master of a vessel must see that no wireless messages were sent to the enemy; that no reports were made of vessels sighted or of weather conditions experienced; and that no wireless messages were sent within two hundred miles of France, Great Britain, Italy, or Portugal, except emergency messages relating to vessels or persons in distress.
11. The services of the master, officers, or any members of the crew of a vessel should be dispensed with at the request of the War Trade Board.
12. No vessel should proceed on a voyage or be chartered without the previous consent of the War Trade Board or Inter-Allied Chartering Executive.
13. No vessel should carry cargo consigned to or shipped by a firm with whom citizens of the United States were prohibited by law from trading.
14. No vessel should carry to or from a European port cargo consigned to or shipped by a firm with whom citizens or subjects of any of the Allied countries were prohibited by law from trading.
15. No vessel should be bought or sold without previous approval of the War Trade Board, Shipping Board, or Inter-Allied Chartering Executive.
16. No vessel should be laid up in port without the approval of the War Trade Board or the Inter-Allied Chartering Executive.

17. Every vessel clearing from a port of the United States should observe all requirements of the Emergency Fleet Corporation, Navy Department, Department of Commerce, and the Bureau of War Risk Insurance of the Treasury Department.

18. All bunkers should be used solely for the vessel receiving them; no portion should be landed in any port or transferred to another vessel.

19. A monthly report should be furnished the War Trade Board showing in detail the movement of all vessels subject to these regulations.

Consuls of the United States were instructed on January 30 that every vessel leaving the United States would carry certain bunker forms, a shipper's export declaration, and a manifest of cargo to be discharged at each port.¹⁴ Upon arrival at port, the master of the vessel must deliver these to the consul and give him information regarding the cargo, bunkers, ship's stores and voyage. The master could "proceed to load or discharge only after receiving authority from consul." The consul should report to the War Trade Board deliveries of cargo not in accordance with the shipper's export declaration and also any violation of the terms of the bunker agreement.

On March 29 the consuls were sent an instruction¹⁵ to be substituted for the one mentioned above. This instruction differed from the first in that it did not include the statement that the master could "proceed to load or discharge only after receiving authority from consul." Furthermore, it included a new statement that the consul should "avoid interposing objection to or exercising control or supervision over loading, discharging or distribution of cargoes," and be careful to avoid violations of local law.

EXAMINATION OF NEUTRAL SHIPS

Negotiations took place late in 1917 between representatives of the United States and Great Britain for eliminating the call at Halifax required by Great Britain for ships bound from the United States to northern neutral countries. The War Trade Board informed its London representative on January 10, 1918, that "we have for several weeks been searching all vessels bound for Scandinavia and Holland through our Navy Department; and arrangements are being completed for elimination of calls at Halifax, which elimination we will insist upon".¹⁶ On February 14 the Board informed him that an agreement had been reached with British representatives which provided for eliminating the call at Halifax by ships loaded wholly in the United States and bound for the

¹⁴ Document 320.

¹⁵ Document 341.

¹⁶ Document 309.

northern neutrals.¹⁷ These ships were to be searched at New York by officials of the United States assisted and advised by British Admiralty officers.

Eight months later the arrangements for the examination of neutral ships proceeding across the Atlantic to and from Scandinavian and Dutch ports were described as follows: (1) Westbound vessels destined direct to the United States whose first port of call was New York were not required to call at Halifax as the joint examination service at New York was considered sufficient. Westbound vessels not proceeding to New York were required to call at Halifax. (2) Eastbound vessels which loaded entirely in the United States were not required to call at Halifax. Eastbound vessels which loaded at other than United States ports were required to call at Halifax before proceeding to Europe.¹⁸

On October 11 the Chairman of the War Trade Board requested a British representative to take up with the British Government the question of eliminating entirely the necessity for the call at Halifax for all ships which touched at a port of the United States "so that they may be searched here."¹⁹ It seemed to him "illogical to require the waste of shipping involved" in causing ships which touched at a port of the United States and which might be examined in the United States, to call also at Halifax for examination.

Five days later, October 16, the War Trade Board's representative at London cabled a plan, approved by the United States Navy and the British Admiralty, to eliminate the call at Halifax for all neutral ships crossing the Atlantic to and from Scandinavian and Dutch ports.²⁰ A joint examination service such as was then in existence at New York was to be set up at New Orleans, Norfolk, Philadelphia, and Colon, Panama. At the examination ports British officers should be appointed "to work in conjunction with" examination officers of the United States. These officers jointly would furnish the Allied Blockade Committee and the British Admiralty with information required for blockade purposes. The procedure for ships would be as follows:

1. Westbound ships to the United States were to proceed direct to an examination port.
2. Westbound ships to the West Indies, or to Atlantic ports other than the United States, were to call at Kingston or a United States examination port.
3. Westbound ships to the Pacific via the Panama Canal were to be examined at Colon; westbound ships to the Pacific via Cape Horn must call at a United States examination port or Kingston.

¹⁷ Document 323.

¹⁸ Document 406.

¹⁹ Document 403.

²⁰ Document 406.

4. Eastbound ships from the United States with cargo loaded wholly in the United States were to proceed direct from an examination port; if the cargo was not loaded wholly in the United States, clearance should not be given "without concurrence from London."

5. Eastbound ships from Atlantic ports south of the United States, or the West Indies, or the Pacific, were to be examined at a United States examination port or Kingston.

Mr. L. H. Woolsey, then Solicitor for the Department of State, called to the attention of Counselor Polk, this proposal to set up in the United States examination ports to which ships "not calling at the United States in the ordinary course are to be compelled to touch, for purposes of search" by officers of the United States and Great Britain.²¹ If the United States should adopt the plan, "our contentions while neutral, and the claims of American citizens admitted by us to be good at the time, are, it seems to me, cast aside." He doubted whether the Government ought to or could, by action of this kind, invalidate such claims as might be good.

The War Trade Board's representative at London was informed on November 29 that the plan for examining neutral ships did not meet with the approval of the Department of State.²²

CONTROL OF SPANISH SHIPS

It has been mentioned that general rules for the granting of bunker licenses were issued January 19, 1918.²³ On that date the Acting Secretary of State cabled a bunkering arrangement between the War Trade Board and the Compañía Transatlántica and Pinillos Line, to American consuls in ports served by these two Spanish steamship lines.²⁴ In consideration of bunker licenses which had been granted and "as an aid to avoid possible future delay", both lines had agreed as follows with respect to all vessels under their control: (1) The War Trade Board would be allowed complete freedom to search their vessels in ports of the United States or possessions. (2) The Board would be permitted to send two representatives on voyages whenever desired. These representatives would be kept fully informed regarding destination, intended loading and discharging of cargo, bunkers, or supplies. (3) Vessels of the two lines would carry no cargo except as approved by the War Trade Board. (4) Upon arrival of a vessel at port, the master would deliver to the American consul a complete manifest of cargo intending to load or discharge at his port and copies of agreements with the United States. The

²¹ Document 421.

²² Document 427.

²³ See p. 121.

²⁴ Document 314.

master would allow the consul to supervise the loading and discharging of cargo, bunkers, or supplies.

These consuls were instructed on March 30 that in carrying out the above instruction they should "take no steps toward opposing, controlling, supervising or preventing loading, discharging or distribution of cargoes, and be careful to avoid violations of local law."²⁵ They might take any reasonable and proper steps, however, to satisfy themselves that agreements with the War Trade Board were fulfilled.

Four days later the War Trade Board's representative in Cuba reported that ships of the *Compañía Transatlántica* and *Pinillos* Line had been engaged in German propaganda between Cuba and Mexico and that the Cuban Government was opposed to their receiving coal in Cuba for voyages to Mexico. Secretary Lansing, in a reply of April 4, expressed the hope that the Cuban Government might be able under its laws and regulations to prevent ships of these two lines from continuing their voyages between Cuba and Mexico.²⁶ The representative in Cuba was reminded that under the agreement of March 7 with Spain²⁷ the War Trade Board was bound for two months to afford such coaling facilities as might be possible to Spanish ships touching at ports of the United States. While this provision might be construed as applying only to ports of the United States, the Board considered advisable that its representative should do nothing against the spirit of the agreement.

The War Trade Board explained on April 26, 1918, that during the two months the United States was obligated freely to supply Spanish ships with bunkers, the general bunkering rules of January 19 would not be applied to Spanish ships. Therefore, the Board had "bunker control as a lever to induce Spain to make an agreement" which would put at least some portion of the Spanish merchant marine into service useful to the United States.²⁸

This period of two months for freely supplying bunkers to Spanish ships was later extended. On July 2 the War Trade Board's representative in Cuba was informed that the Board had decided to continue to issue bunker licenses freely to ships of Spanish registry, but this would apply only to those clearing from Atlantic or Gulf ports of continental United States.²⁹ Accordingly, there was no longer any reason for facilitating sailings of Spanish ships from Cuban ports, and the Board desired that no bunkering facilities should be extended to Spanish vessels bound for Mexico. Ten days earlier the representative had been instructed that the Board

²⁵ Document 342.

²⁶ Document 344.

²⁷ See p. 108.

²⁸ Document 347.

²⁹ Document 364.

was allowing American coal to go to Cuba for the benefit of Cuba.³⁰ The Board desired that the Cuban Government should restrict the sailings of all ships from Cuba to Mexico by refusing them coal which had been shipped "for Cuba's own use."

The Cuban Government agreed in July to follow the wishes of the War Trade Board in this matter.

The War Trade Board had sent a representative to Spain in June, 1918, to negotiate for a shipping agreement with Spain. He was instructed by the Board to arrange that vessels not touching ports of the United States and proceeding to Spain from South America, Central America, Mexico, and the West Indies "be compelled call at Puerto Rico for examination to avoid necessity Allied blockade fleet requiring vessels proceed Kirkwall or Gibraltar for examination."³¹ These negotiations for a shipping arrangement were not fruitful, however, and the representative returned to the United States in August.

Meanwhile the War Trade Board took up with agents of Spanish lines in the United States and Cuba the question of the call at Puerto Rico. The Board's representative in Cuba was to make "efforts to cause all Spanish steamers to call at a port under American control before and after touching at Cuba" but his efforts were not successful.³² While carrying on these negotiations, he cabled a report from Cuba that an agreement with Spanish lines had been reached in Washington to coal their ships in ports of Puerto Rico or of the United States. The Board stated on September 20 that no such arrangement had been made but the Pinillos Line had expressed a willingness to have its ships stop at Puerto Rico for censorship purposes and "would undertake to do this without having the matter taken up diplomatically."³³

The American Consul at Puerto Cabello, Venezuela, reported to the Department of State on October 7, 1918, that a Spanish steamer there had requested permission to proceed to Spain by way of other Venezuelan ports and a port in the Canaries instead of proceeding directly to Spain in accordance with the terms of the ship's original bunker license. The War Trade Board decided that this ship should be permitted to proceed as requested provided that, after leaving Venezuela, it should call at a Puerto Rican port in order that the cargo, consignors, and consignees might be approved by American authorities there.³⁴

³⁰ Document 359.

³¹ Document 363.

³² Document 379.

³³ Document 395.

³⁴ Document 402.

In considering the plan proposed on October 16 for examining neutral vessels proceeding across the Atlantic to or from northern neutral countries,³⁵ the War Trade Board considered also a plan for examining in a port of Puerto Rico or of the United States, Spanish vessels proceeding to or from Spain. These plans were not approved by the Department of State.

In October the War Trade Board considered the advisability of resuming bunker control of Spanish ships "in the interests of Spain."³⁶ Large amounts of cotton and petroleum which had been licensed for export were not being lifted and at the same time Spanish vessels were being employed to lift cargoes of less essential commodities. The Board felt that the Spanish Government "might welcome an exercise by us of control over Spanish ships" which would insure a certain amount of shipping being used to carry essential commodities between the United States and Spain.

On November 5, the War Trade Board's representative in Spain was authorized informally to discuss with the Spanish Government the question of lifting cotton and petroleum and the imposition of bunker control to insure regular service between Spain and the United States.³⁷ He should ascertain the attitude of the Spanish Government without committing the Board to any definite policy or implying that the right to impose bunker control was "in any way dependent on Spanish acquiescence."

After the armistice with Germany, this subject was not pursued.

THE "KRONPRINS GUSTAF ADOLF" AND THE "PACIFIC"

The Secretary of State communicated with the Swedish Minister on June 26, 1918, regarding the delay in ports of the United States caused two Swedish motor ships, *Kronprins Gustaf Adolf* and *Pacific*, "on account of difficulty in obtaining export licenses for bunker oil carried on board the ships on their arrival."³⁸ Secretary Lansing admitted that the treaty of 1783 between the United States and Sweden, forbade the laying of an embargo and the detention of ships or merchandise "by seizure, by force or by any such manner." However, that treaty did not appear to obligate the United States to refrain from applying to these ships general regulations for controlling exported commodities.

Secretary Lansing called the attention of the Minister to Calvo's definition of an embargo: "a prohibition of leaving, generally applied to merchant ships, and usually imposed in order that the ships

³⁵ See p. 124.

³⁶ Document 407.

³⁷ Document 420.

³⁸ Document 360.

may be employed in the service of the nation laying the embargo, or that they may hinder and obstruct the operations of the enemy." He stated that no embargo had been laid upon the two ships. The United States had not prohibited their sailing or the exportation of the bunker oil which they carried; it had merely required the licensing "of all commodities desired to be removed from the jurisdiction of the United States." The law on this subject did not distinguish between the exportation of an article of commerce and the taking out of an article which had never been entered at a customs house and had never left the ship on which it came into the territorial waters of the United States.³⁹ The Secretary considered it obvious that there was a wide distinction between necessary compliance with licensing regulations of the United States relating to articles taken out of its jurisdiction, and detention "by seizure, by force or by any such manner."

The cases of these two ships were submitted to arbitration and in 1932 a decision was rendered that the United States did not detain the ships in contravention of Swedish-American Treaties.

SAILING SHIPS

On September 29, 1917, it had been announced by the Exports Administrative Board that clearance would be refused sailing vessels destined to go through the war zone.⁴⁰ The bunkering rules of January, 1918, had contained a like restriction.⁴¹ On September 27, 1918, the practice of the War Trade Board in regard to bunker licenses was as follows:⁴²

1. Sailing vessels would not be permitted to sail from a port of the United States or its possessions, "with any quantity of brass, copper or other similar metals as such."

2. Sailing vessels would not be permitted to sail from a port of the United States or its possessions if carrying "any quantity of petroleum or its by-products or foodstuffs as cargo," unless so stowed in the hold beneath cargo of a different nature as to make it manifestly difficult for removal by a submarine.

3. Sailing vessels would not be permitted to sail from a port of the United States or its possessions, bound for a port on the west coast of Africa north of Cape Palmas inclusive, a European port, a Mediterranean port, or a port of an Atlantic island east of 30 degrees west longitude and north of 4 degrees north latitude.

4. Exceptions to the foregoing rules were as follows: (a) Spanish sailing vessels *en route* to Spain and Portuguese sailing vessels *en route* to Portugal, would be permitted to traverse the danger zone if "fully loaded with no objectionable cargo as defined" in para-

³⁹ See p. 91.

⁴⁰ Document 276.

⁴¹ Document 315.

⁴² Document 397.

graphs 1 and 2. (b) Sailing vessels carrying German safe-conducts would be permitted to sail from ports of the United States to Certe with cargoes destined for Switzerland, if their cargoes "were unobjectionable as defined" in paragraphs 1 and 2.

Rules in regard to the bunkering of unarmed steamers were also set out by the War Trade Board on September 27, 1918. No unarmed steamer would be permitted to proceed independently from a port of the United States or its possessions if the deck cargo included "petroleum or its by-products, food stuffs, brass and copper or other similar metals as such", when the voyage would necessitate navigating waters north of the latitude of Charleston, South Carolina.

CENSORSHIP OF MAILS

A Censorship Board established on October 12, 1917,⁴³ maintained "a strict censorship on all vessels coming from any neutral country and destined to any other neutral country which stop *en route* at any port in the United States, as well as all mails on all ships leaving or entering the United States."⁴⁴

The Secretary of State informed the Minister in Cuba on March 1, 1918, that all mail in transit between Spain and Latin American countries, which was not subject to the censorship of the Allies, was "taken, held and examined" by the censorship of the United States, when vessels carrying mail touched at a port of the United States.⁴⁵ The Secretary desired that there should be a thorough censorship of all mail touching at Cuban ports, other than mail originating in or destined for the United States which was not subject to the censorship of the Allies.

The Minister reported that the Cuban Government would carry out the wishes of the Secretary. He was instructed on March 13 that Cuba's censorship should be efficiently done under the supervision of the United States. It should be "so comprehensive as to permit at the same time a thorough search of the entire ship, passengers, officers, and crew in discretion of American official."⁴⁶ This form of search of all neutral vessels had been carried out for nearly two years by Great Britain, and it was "being done by the United States".

The right of search of neutral mails passing through belligerent territory was discussed by the Secretary of State in a cable of July 5, 1918, to the Minister in Cuba.⁴⁷ The views expressed to the Minister could not be presented as views of the Government of the

⁴³ Document 282.

⁴⁴ Document 289.

⁴⁵ Document 331.

⁴⁶ Document 335.

⁴⁷ Document 368.

United States but "as grounds upon which a practice of censoring mails may perhaps be justified".

Secretary Lansing stated that mails were extensively used to transmit merchandise, which might include "money, evidence of indebtedness, etc., comprehending money orders, checks, drafts, notes, and other negotiable instruments, stocks, bonds, coupons, and other similar securities." Mails might thus be used to transmit contraband of war and hostile despatches directly or indirectly to or from an enemy country. If, therefore, a belligerent had a right to prevent the transmission of contraband and hostile despatches, the Secretary believed there was "ample ground" for a belligerent to inspect mails passing between neutral countries in the Western hemisphere and Germany or countries contiguous to Germany, so long as those neutral countries did "not take steps to keep contraband and noxious despatches out of Government mails."

The Secretary concluded that there could be no objection in principle to the censorship of mails. However, there might be objection to dilatory tactics and excessive detention of vessels, or to the abuses of exercising censorship such as the detention of innocent articles and personal letters.

CONTROL OF IMPORTS

The Trading with the Enemy Act of October 6, 1917, provided that whenever during the war the President "shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States" any article mentioned in the proclamation, except under general regulations prescribed by the President.⁴⁸

Under this authority the President proclaimed on November 28, 1917, that tin, wool, rubber, ferromanganese, leather, flax and jute, and other enumerated articles should not be imported into the United States except under license of the War Trade Board.⁴⁹ The Board explained in connection with this proclamation that the supply coming to the United States of these indispensable commodities produced abroad was limited by reason of export embargoes imposed by countries controlling the territory in which these commodities originated.⁵⁰ Governmental supervision of imports, the Board stated, would make possible a more effective scheme of reciprocity among the countries associated together in the war; the Allies would be enabled more effectively to express their willingness to reciprocate, by making liberal shipments of commodities needed by the

⁴⁸ Document 279.

⁴⁹ Document 293.

⁵⁰ Document 294.

United States in exchange for the "vast quantities of vital supplies" which were being sent to them.

The Board stated that "the various trades dealing in the embargoed commodities" had been or were being so organized that the total requirements of each industry could be accurately surveyed, and a system of control provided which would insure the equitable distribution of the imported commodity. These commodities had been allowed to come to the United States only under guarantees given to representatives of the Allied Governments that they would not be re-exported except under specified restrictions; that they would not be used in trade with the enemy; and that no purchase had been made as a speculation. The plan for licensing imports obviated the giving of guarantees by persons or firms to a foreign government. Persons or firms in the United States would deal directly with their own government in connection with importations.

The President issued a proclamation on February 14, 1918, which provided that licenses would be required for all imports into the United States.⁵¹ The War Trade Board announced in regard to this proclamation and one of the same date requiring licenses for all exports,⁵² that the "critical tonnage situation" had made necessary the instituting of complete control over all imports and exports.⁵³ The two proclamations did not mean an embargo on exports or a prohibition of imports; they placed in the hands of the President the power to regulate and this power would be exercised "with the single purpose of winning the war."

The Board later stated that the chief purpose of the import proclamation of February 14 was to enable the United States to eliminate less essential imports so that additional shipping might be made available for the transportation of troops and supplies to Europe.⁵⁴ In exercising import restrictions the United States desired to affect as little as possible the industry and commerce of the Allies, "and to work as little hardship as possible to neutrals."

⁵¹ Document 325.

⁵² Document 324.

⁵³ Document 326.

⁵⁴ Document 339.

CHAPTER VIII

ENEMY TRADING LISTS

EARLY STATEMENTS OF POLICY

Secretary Lansing stated on April 23, 1917, that he was not prepared to make an announcement in regard to the policy of the Government toward a black list measure.¹ However, he expected that a "harmonious understanding" would soon be had with the British Government about the general question.

The Law Adviser stated in his memorandum of May 17 that the United States would not accept completely the British and French black lists but would refuse exports to persons in neutral countries who were using the goods in trade for the benefit of the enemy.² The United States would not prevent imports from black listed firms or payments to them for imports unless the transaction amounted to trading for the benefit of Germany. The United States was in a different position from European countries in regard to such trade with South America, he stated. It could "not afford to arouse the ill-feeling of Latin American countries" nor to lose the profits which accrued from trading with Germans in those countries, profits which helped defray the expenses of the war.

The diplomatic representatives of the United States in neutral countries were directed on June 20 to investigate firms on the British and French "statutory" lists, consulting evidence in possession of Allied colleagues.³ They were to instruct consular officers to send the Department of State information with respect to firms of enemy nationality or association or activity, firms acting directly or indirectly in enemy interests, and indications that American goods were reaching unfriendly consignees or passing through neutral countries to the enemy. Diplomatic and consular officers were to cooperate fully on the basis of reciprocity with officers of the Allied Governments, exchanging information and furnishing them copies of reports and affidavits "in relation to war matters."

These instructions were explained to a consul on July 17 as not contemplating more than an exchange of information.⁴ American

¹ Document 250.

² Document 252.

³ Document 258.

⁴ Document 264.

consuls could not "take formal part" with representatives of the Allies in commercial measures aimed at German subjects in neutral countries until the attitude of the United States regarding trade with enemy nationals in neutral countries was fully formulated.

TRADING WITH THE ENEMY ACT

The Trading with the Enemy Act of October 6, 1917, provided that it should be unlawful for a person in the United States, except with a license, to trade or attempt to trade directly or indirectly for the benefit of another person, with knowledge or reasonable cause to believe that the other person was an enemy or ally of enemy.⁵ The terms "enemy" and "ally of enemy" as used in the Act were defined as follows:

1. An individual, partnership, or other body of individuals of any nationality resident within the territory of a nation or an ally of a nation with which the United States was at war, or resident outside the United States and doing business within such territory.

2. A corporation incorporated in the territory of a nation or ally of a nation with which the United States was at war or incorporated within a country other than the United States and doing business within such territory.

3. The Government of a nation or ally of a nation with which the United States was at war, a political or municipal subdivision, "or any officer, official, agent, or agency thereof."

LIST FOR LATIN AMERICA, DECEMBER 5, 1917

The War Trade Board made public, on December 5, 1917, an "enemy trading list" containing the names of approximately 1600 firms in Latin American countries with which it was illegal to trade without license under the Trading with the Enemy Act.

The Secretary of State informed the diplomatic and consular officers of the United States in Latin American countries that the list was composed of enemies and allies of enemies and other persons or firms which there was reasonable cause to believe had acted directly or indirectly for the benefit of enemies or allies of enemies.⁶ It did not purport to be a complete list, the Secretary stated. Any person or firm which there was cause to believe was an enemy or ally of enemy, or was trading for the benefit of an enemy or ally of enemy, was not relieved from punishment and penalty because the name of the person or firm did not appear upon the list.

⁵ Document 279.

⁶ Document 298.

The consuls in Latin American countries were directed on December 13 to investigate each firm on the enemy trading list.⁷ Furthermore, they were to cable names of those they believed should be eliminated as not falling within any of the following classes: (1) having branch firms in Germany; (2) engaged actively in trade with enemy firms; (3) acting or having acted as a cloak for enemy firms or firms on the enemy trading list; (4) engaged in active German or anti-American propaganda; (5) having definitely given aid or comfort to the enemy; (6) having partners resident in Germany.

In the interest of advancing American foreign trade, the consuls were to forward immediately a brief list of principal firms free from enemy character, activity, or association who could "take over American trade of firms on enemy trading list."

These consuls were instructed one month later to decline to certify invoices for persons or firms whose names were on the enemy trading list and for persons known to be acting as "cloaks" for listed firms, except where it was alleged that the shipment was covered by a War Trade Board license.⁸ Sales of local branches of firms in the United States to firms on the enemy trading list were not to be objected to when alleged to have been duly licensed. All firms suspected of misrepresentations were to be promptly reported. The same treatment should be accorded to firms alleging possession of a British, French, or Italian license.

Among the firms included on the enemy trading list was the Banco Salvadoreño. In order that the bank might be removed from the list, the Salvadoran Government guaranteed that the operations and policy of the bank would be "neutral in every particular" and that the necessary measures would be taken to make this guarantee effective. Secretary Lansing stated on January 7, 1918, that in view of this guarantee of the Salvadoran Government, the bank had been withdrawn from the enemy trading list.⁹

The Secretary of State set forth in a letter written in February a special enemy trading list policy which was to be followed in regard to Brazil, Cuba, and Panama, the three Latin America countries at war with Germany.¹⁰ No new names should be put on the enemy trading list without consultation with the diplomatic representative of the country concerned. If one of the Governments asked officially that a name be taken off the list and was "willing to take all responsibility for future action of listed persons," the name should be taken off the list. However, France and Great Brit-

⁷ Document 299.

⁸ Document 312.

⁹ Document 306.

¹⁰ Document 330.

ain should concur in the removal of a name. It was explained that the Department of State favored this policy as it believed that, in matters concerning the enemy trading list, some distinction should be made between Latin American countries which had declared war against Germany and those which had only broken off diplomatic relations or still remained neutral. A feeling seemed to exist in all the countries aligned with the United States, that there was no discrimination in their favor, although it was "expected as a result of their action."

COORDINATION OF POLICY WITH THE ALLIES

The War Trade Board stated in 1918 that soon after the passage of the Trading with the Enemy Act it became evident that cooperation between the Associated Governments and uniform action in enemy trade matters "were essential to the efficient working of an economic offensive and the full accomplishment of its purposes to prevent assistance reaching the enemy."¹¹ On February 19 it reached an understanding with representatives of the British and French Governments concerning cooperation in making changes in the British statutory list, the French *liste noire générale*, and the enemy trading list of the United States:¹²

1. No changes would be made in the lists without a preliminary reference by the Government proposing changes to the other two Governments.

2. Changes mutually agreed upon would be published by the three Governments as nearly as practicable on the same dates.

3. Proposals for changes in the lists for Europe, except Spain and Switzerland, would be discussed in London; proposals for changes in the lists for Spain and Morocco would be discussed in Paris; and proposals for changes in the list for Latin America would be discussed in Washington.

4. The British statutory list, the French *liste noire générale*, and the enemy trading list for Latin America were being amended in accordance with the above principles.

5. The United States would not publish an enemy trading list for Switzerland.

6. In preparing an enemy trading list for European countries, except Spain and Switzerland, a representative of the War Trade Board had conferred with representatives of the British Government.

7. The enemy trading list of the United States would correspond exactly with the French *liste noire générale* as far as Spain and Morocco were concerned.

In May the War Trade Board announced that France, Great Britain, and the United States had adopted practically uniform lists

¹¹ Document 352.

¹² Document 328.

for all countries and that Italy had approved this policy in principle.¹³ The Board expressed the hope that this cooperation would result in a continuance of uniformity in the lists, so that in effect they would form one consolidated enemy trading list.

A new edition of the enemy trading list was issued by the Board during that month. It included five thousand names and covered, in addition to the Latin American countries, the following for which no American list had been previously issued: Denmark, Greece, Iceland, the Faroe Islands, Morocco, the Netherlands, Netherland East Indies, Norway, Spain, and Sweden. The Board explained that the list was not complete as it included only persons and firms concerning which it had adequate information to justify listing. A warning was therefore given against trading with persons who might be enemies or allies of enemies or who might be taking part directly or indirectly in trade with enemies or allies of enemies.

DESCRIPTION OF WAR TRADE BOARD LISTS

The Secretary of State, in an instruction of August 30, 1918, gave the diplomatic and consular officers in Latin American countries a description of the lists which the War Trade Board had compiled and he also indicated the way in which the officers might best aid in perfecting them.¹⁴

1. *The enemy trading list.* This was compiled to give notice to merchants, bankers, shippers, and others that trade with listed persons and firms might involve a violation of the Trading with the Enemy Act, or might result in restrictions being imposed under regulations issued under Title VII of the Act of June 15, 1917.¹⁵ Three classes of persons and firms were listed: enemies, allies of enemies, and those who were trading for the benefit of an enemy or ally of enemy.

2. *The confidential enemy trading list.* This included names eligible for the enemy trading list, but which it was inexpedient to publish. Three examples were given of this type: (1) a person or firm might be "so connected officially with a neutral government as to make it inexpedient to publish the name", although it was clear that exports and other facilities should be denied; (2) a person or firm might not be engaged in trade and no "collateral object" would be gained by publishing the name, and (3) a person or firm might be of such small importance that to publish the name would tend unnecessarily to increase the bulk of the list.

3. *The cloak list.* A "special list confined to 'cover names' used to cloak enemy trade transactions, which are either fictitious or represented straw men not personally engaged in international trade and of no financial importance." No names of established firms or

¹³ Document 352.

¹⁴ Document 383.

¹⁵ Document 256.

independent businesses should be included in the cloak list, but enemy trade cover names, including names of employees and friends used as cloaks, should be proposed for inclusion. The cloak list was confidential and was not widely distributed; if made public it would become obsolete immediately for new cloaks would be used. Furthermore, cover names were often those of individuals who "had not consented to the cloak use" and who would be affected unjustly and unnecessarily by inclusion in the published list.

The Secretary explained that listing of persons and firms was "not an outlet for vindictiveness, nor a device for punishment," but a measure to prevent trading with the enemy. No good "would be accomplished by listing a quiet, inoffensive German" merely because he was a German, even though he expressed a belief in the justice of the German cause. Enemy nationality alone was not sufficient to justify listing although it was under French, British, and Italian laws, the Secretary stated. An enemy national should be proposed for the lists, however, if he was an enemy agent actively engaged in propaganda, was fomenting dissension between the Associated peoples and neutrals, was backed by enemy capital, was controlled from enemy territory, was trading for the benefit of an enemy or ally of enemy, or was furthering trade with enemy countries.

The diplomatic and consular officers were reminded that public opinion in a neutral country was important and that this consideration applied "with peculiar force to the listing of newspapers and other organs of public opinion." The principle of freedom of the press should not be ignored; newspapers should not be listed merely because they favored the German cause. They should be nominated for listing, however, if they were backed by German capital or were subsidized by the German Government or German propagandist organizations, or were otherwise controlled by enemy interests.

The Secretary stated that the War Trade Board had no white list in the sense that trading between the United States and foreign countries was confined to the firms upon such a list. However, the Board was endeavoring to furnish American exporters and importers, upon their request, with information concerning trustworthy firms abroad from the standpoint of the laws to prevent trading with the enemy. This list included names of firms "approved affirmatively as clearly unobjectionable and proper connections for American trade." In reporting firms for inclusion in this list the diplomatic and consular officers should indorse only those of whose trustworthiness they were satisfied, "bearing in mind not only the absence of present enemy activities and connections, but also their value to American trade for the future."

CONFERENCES ON ENEMY TRADING LISTS

Secretary Lansing explained in an instruction of August 30, 1918, to the diplomatic and consular officers of the United States in Latin American countries, the general measures of coordination of the Associated Governments in enemy trading policy:

1. *Assimilation of enemy trading lists.* The assimilation of published enemy trading lists of France, Great Britain, and the United States was almost complete and it was expected that the Italian list would soon be brought into accord. The confidential lists were in process of assimilation. To maintain uniformity, conferences were to be held regularly by representatives of the four Governments in each country covered by the lists. At these conferences there would be a discussion of names suggested for addition to or removal from published and confidential lists. The resulting determinations would be transmitted to each foreign office, and in the case of Latin American countries, simultaneously to the respective embassy or high commission in Washington. If there was a difference of opinion after conference, the representative of the United States would transmit to Washington his own opinion and the varying opinions of his colleagues. Recommendations for changes in the lists for Latin American countries would be reviewed in Washington by representatives of the four Associated Governments. Those for Morocco, and for Spain, Switzerland, and Greece would be reviewed in Paris; those for the rest of neutral Europe in London.

The above procedure was not to apply to the cloak list for Latin American countries and Spain, which was to be compiled and distributed by the War Trade Board. However, there should be a discussion of cloak list recommendations with representatives of the other three Governments and concurrence or nonconcurrence should be reported.

2. *Adjustment of administrative restrictions.* Although assimilation of the various enemy trading lists was to be accomplished as far as possible, there would be cases on which the Associated Governments could not agree and on which each would then follow its own course. Great Britain had agreed that trade between the United States and a third country, which was unobjectionable under enemy trading regulations of the United States, should not be interfered with by British regulations merely because the consignor or consignee or their connections were objectionable to the British Government. The United States would act reciprocally with respect to similar British trade. Furthermore, British authorities without the consent of the United States would not interfere directly with trade between the United States and a third country, even though there was evidence that trade was being carried on in violation of American restrictions and British policies. In these cases the British authorities would communicate the facts to representatives of the United States who would take appropriate action. The United States would reciprocate in similar cases.

3. *Interchange of information on enemy trade matters.* The representatives of the Associated Governments in different countries

should establish an effective system for exchanging information on current enemy transactions. Through this interchange of information much of the divergence in treatment of firms not listed in coordination by the four Governments could be avoided. Furthermore, reports on the same case to each of the four Governments should be substantially alike except where unavoidable divergences of judgment arose. The diplomatic and consular officers of the United States were instructed to make a special effort to establish the custom of reciprocal conferences and interchange of information on all enemy trade matters "not peculiarly of a strictly confidential nature."

Four days after this instruction of August 30 was sent, the Secretary of State cabled the diplomatic and consular officers in Latin American countries of a decision in regard to changes in enemy trading lists.¹⁶ The Washington conference on changes in lists would act thereafter on their telegraphic reports on listing, provided these reports stated the unanimous recommendations of representatives of the Associated Governments, "and sufficient specific reasons." If disagreement was reported by the representative of the United States, reports of the other three would be awaited before action was taken.

The diplomatic and consular representatives were to avoid the phrase "Allied colleagues" and use instead the expression "British, French, and Italian colleagues."

CONFERENCES ON ENEMY TRADING LICENSES

The War Trade Board informed its representatives in London and Paris on July 2, 1918, of an agreement between France, Great Britain, and the United States that enemy trading licenses, with certain exceptions, would be issued only after a recommendation had been made by a conference of representatives of the three Governments.¹⁷ The conference was to sit in London for cases involving trading with listed or other enemy persons in Denmark, Sweden, Norway, and the Netherlands; and it was to sit in Paris for cases involving trading with listed or other enemy persons in Switzerland, Spain, and Morocco. If the War Trade Board proposed to grant a license which involved trading with a listed or other enemy person in one of these seven countries, the circumstances of the case and the Board's recommendation, would be cabled to its representative who would present the case to the conference. Upon the conference's approval or disapproval of the recommendation, the representative was to cable action of the conference to the Board.

¹⁶ Document 386.

¹⁷ Document 365.

It was later explained that the conference was to sit in Washington for cases involving persons or firms located in Latin America.¹⁸

The War Trade Board's representatives in London and Paris were informed on August 24 that France had not fully agreed to the plan for issuing enemy trading licenses.¹⁹ Formal conferences would be resumed when a definite agreement was reached. Meanwhile, the War Trade Board would transmit to the representatives such cases as would be submitted to the London and Paris conferences and these cases were to be discussed informally with British and French authorities. Results of the discussions were to be cabled to the Board.

About this time it was reported that in London there was little interest in the conference plan for enemy trade licensing. On August 31 the War Trade Board explained to its London representative that a common policy for granting licenses was absolutely necessary and only possible under this plan; unified lists accomplished nothing without unified action in licensing.²⁰ The Board stated that it received from agents in northern neutral countries many complaints of detrimental results to the United States from lax British policy toward persons on the confidential list. Similarly, in South America the Board had licensed transactions where this action nullified the policy of the British and French. Had the United States been informed that such policy existed, "licenses would not have been granted."

The Board explained further on September 4 that the aim and function of the conference plan for enemy trade licensing was to furnish a method for obtaining unity of action between the Associated Governments in the administration of their enemy trade restrictions.²¹ This unity of action was essential to exercise effectively enemy trade restrictions and to secure maximum results from them. The Board felt that the plan must be thorough and involve all except unimportant cases and cases in which it was agreed that the action would always be the same. By this course inconsistent acts would be avoided and opportunity would be taken away from the enemy to "manufacture damaging propaganda" on the basis of actions of one Government in apparent contravention of the policy of another.

Representatives of the War Trade Board at London and Paris were informed on October 11 of a British suggestion that pending a settlement of minor difficulties, formal enemy trade license conferences should be resumed, each Government participating to the extent

¹⁸ Document 384.

¹⁹ Document 380.

²⁰ Document 385.

²¹ Document 387.

to which it had agreed.²³ This plan had been accepted by the Board and by the French and Italian Governments, and the Washington conference was in formal operation. The representatives were to take steps to reinstate formal meetings of the enemy trade license conferences at London and Paris. On October 23, the Board reported that formal conferences were taking place at London, Paris, and Washington.

The War Trade Board set forth, on October 31, the "scope of the jurisdiction of the inter-allied enemy trade license conference."²⁴ The United States and Italy had agreed fully to the original proposals of the United States. These proposals covered cases, with certain exceptions, where one of the Associated Governments desired to authorize a transaction involving enemy persons, persons on the statutory list, or persons on the confidential list. France had agreed to submit all cases covered by the original American proposal, except transactions with listed persons not enemy nationals, where execution of the transaction had commenced. This situation, the Board stated, was "permanently satisfactory." The British Government had agreed to the original proposals except that they reserved from submission to the conference transactions involving importation into Great Britain and purely financial transactions involving persons on the confidential list, in Denmark, Norway, Sweden, or the Netherlands. The Board was convinced of the great desirability of complete agreement on the part of Great Britain. The reason for this conviction was not so much a desire to prevent the practical difficulties which might arise from uncoordinated action, "but because of the extremely salutary effect upon trade relations between the Allies which a completely open policy will have, especially with a view to after-the-war relations."

JAPANESE PARTICIPATION IN CONFERENCES

The War Trade Board informed its representative at Paris on August 1, 1918, that in April it had proposed unification of the enemy trading lists of the United States and Japan and had been notified of Japan's assent.²⁵ The Board regarded the inclusion of Japan in the coordination plan and the conferences at Paris, London, and Washington "extremely desirable and important." For several months, negotiations to this end had been in progress in Washington.

²³ Document 404.

²⁴ Document 416.

²⁵ Document 374.

The Secretary of State advised the British Chargé on September 30 that the United States was prepared to invite Japan to participate in the London, Paris, and Washington conferences for the consideration of enemy trading lists and licenses, providing the other Governments concerned were willing to join in an invitation.²⁶ It was thought that Japan would probably expect that the plan of joint enemy trade cooperation would involve the creation of an additional committee, to sit at Tokyo to consider enemy trading lists for China and the Far East. To secure the fullest and most cordial cooperation of Japan in enemy trading matters, the Secretary favored acceding to such a suggestion if presented by Japan and urging accession of the other Governments represented in the conferences.

The War Trade Board informed its Paris representative on October 11 that Japan might request inclusion in the conferences on enemy trading lists and licenses. The Board considered it of "great importance" for Japan to participate in the conferences at Paris, London, and Washington.²⁷ Shortly thereafter Japan began to participate in enemy trading conferences in the three capitals.

POLICY TOWARD PORTUGAL

On September 4, 1918 the War Trade Board cabled its London representative that Portuguese in certain South American countries were "cloaking enemy trade."²⁸ Adoption of full enemy trade restrictions by Portugal was the only effective remedy, the Board stated, and this should be discussed with British officials to further an early decision in regard to publishing an enemy trading list for Portugal.

The London representative reported on September 16 a proposal which had been agreed to by the British Foreign Office. Under this proposal the British statutory list would be withdrawn from Portugal and an enemy trade list of the United States should not be instituted provided: (1) Portugal would adopt a published black list for South America or in some way give effective support to the black list policy in South America; (2) liquidation of German firms in Portugal should be accelerated to such a point as to satisfy representatives of the four Associated Governments in Lisbon that this policy was effectively pursued, and (3) any other conditions in this connection considered possible and desirable by the Associated Ministers in Lisbon should be met. Also, Portugal should be informed that if published black lists were withdrawn, confidential

²⁶ Document 399.

²⁷ Document 405.

²⁸ Document 388.

black lists for Portugal could still be used by the Associated Governments to prevent inequality of treatment to subjects of those of the Allies whose laws prohibited trade with enemy nationals irrespective of the existence of published black lists.

The War Trade Board approved this proposal on September 26.

PROPOSED LIST FOR SWITZERLAND

The War Trade Board's representative at Paris was informed on July 3 that the Board had approved in principle the creation of an enemy trading list for Switzerland,³⁰ provided the list should be applied in a manner consistent with the agreement of December 5, 1917.³¹ He was instructed to cooperate with his colleagues in preparing a list which was to be approved by the Board's representative at Berne.

The latter reported on August 8 that Allied representatives had been unable to obtain a positive decision from Switzerland agreeing to the black-listing of members of the Société Suisse de Surveillance Economique, a private institution acting primarily as consignee of goods received from the Associated Governments. He requested authority formally to inform the Swiss Government that if favorable action was not taken by September 1, the Paris committee would, with the approval of the War Trade Board, include members of the Société Suisse de Surveillance Economique in the published list. This authority was given by the Board on August 20.³²

The Swiss Government took the position that the establishment of a black list would jeopardize the independence and neutrality of Switzerland by the interference of the Associated Governments, and would conflict with regulations of the Société Suisse de Surveillance Economique. It was then proposed that the Associated Governments should reply jointly to Switzerland. The War Trade Board stated on October 22 that it did not favor the presentation of a joint reply, believing that representations regarding the black list should be kept informal.³³ The substances of the reply should therefore, insofar as the United States was concerned, be orally presented and it was to be kept clear that the Board based its black list upon recommendations of its own representative and was not bound by the decision of the Paris or Berne committees.

³⁰ Document 366.

³¹ Document 296.

³² Document 376.

³³ Document 409.

The United States was urged to participate in the presentation of a joint note to the Swiss Government and on November 11 Secretary Lansing instructed the Minister in Switzerland to participate with his British, French, and Italian colleagues.³⁴ The Secretary did not desire that the United States should formally demand recognition by the Swiss Government of the statutory list of the United States, although he saw no objection to a request that the list should be recognized by the Société Suisse de Surveillance Economique, a private institution.

³⁴ Document 422.

CHAPTER IX

GERMAN SAFE-CONDUCTS

SHIPS CARRYING SUPPLIES FOR SWITZERLAND

The Swiss Minister informed the Department of State on April 24, 1918, that Germany was willing, under certain conditions, to grant safe-conducts to the port of Cette for vessels under the enemy flag engaged in transporting cereals to Switzerland. The vessels should fly the Swiss flag on their foremast, should travel outside the blockade zone, should be unarmed, and they should not call at any port except Cette. Furthermore, they should comply with orders to be examined and should carry an accurate manifest written in German.

The Acting Secretary of State replied to the Minister on April 26 that the terms for granting safe-conducts were acceptable, provided the United States received definite assurances that all submarine commanders had instructions from Germany guaranteeing safe-conduct to these vessels before they sailed.¹ He stated on May 3 that the Swiss Minister had confirmed a German announcement that the safe-conduct for American ships *en route* to Cette for Swiss relief could not be effective for three months, since it would take this period to modify existing orders to submarine commanders.²

SWEDISH SHIPS

The War Trade Board's representative at London reported on June 8, 1918, that under an agreement between Germany and Sweden, Germany would grant safe-conducts to Swedish steamers carrying non-contraband cargoes under the agreement between Sweden and the Allies, and also to ships proceeding to oversea countries outside the war zone. Sweden had requested that permission be granted for the carrying of these safe-conducts and Great Britain had agreed.

The Board replied on June 19 that Germany appeared to be issuing safe-conducts which were "nothing more than an assurance that the giver of the safe-conduct will not accomplish that which

¹ Document 346.

² Document 351.

under international law he is forbidden to do".³ The safe-conduct thus became a device to insure control of neutral shipping through a threat of illegal seizure of neutral vessels not accepting this control. Unless the Associated Governments took effective steps to meet the situation, neutral shipping generally might soon be subject to enemy control in a manner which would be "as effective as the control which we exercise by virtue of our bunker control". Although the Board was not prepared to give formal consent for Swedish vessels to carry safe-conducts, should these vessels carry them "without our official knowledge and acquiescence, we see no objection to their doing so at the present time".

A month later the Board stated that under Germany's safe-conduct system neutral tonnage might be divided into two categories: (1) vessels operating to some extent in the Allied interest and consequently not receiving safe-conducts; and (2) neutral vessels operated to no extent in Allied interest but primarily in the interest of the neutral and of the enemy.⁴ Neutral vessels, except those chartered to the United States, had practically all been performing some service for the Allies. Now these vessels would largely be precluded from rendering this service and the tendency would be to increase the number which would be entitled to safe-conducts. The Board believed that it would become exceedingly difficult to supply northern neutrals with goods required for the production of exports to the Allies. Also this German system would be utilized to break down the Allied system of control through consignment to an approved agency. Germany would benefit distinctly in definitely assuring itself in advance that a large amount of shipping would not assist the Allies, since that would "facilitate German naval operations and permit concentration of efforts against shipping not supplied with safe-conducts."

PROPOSAL FOR A NOTE TO NEUTRALS

The London and Paris representatives of the War Trade Board were informed on July 25 that the German safe-conduct system had been discussed at a meeting of the Board at which representatives of the British Embassy and the French High Commission were present.⁵ The Board had adopted a proposal that a joint communication to the following effect should be immediately and simultaneously sent to neutral European Governments: (1) the attempt of the German Government to control neutral shipping generally through a new device improperly termed a safe-conduct, consti-

³ Document 358.

⁴ Document 372.

⁵ Document 373.

tuted in fact a threat of illegal condemnation or destruction unless German control was accepted; (2) this control would extend to German supervision of the personnel of passengers and crew, the character and consignment of cargo, and the movements of the vessel; (3) in certain instances, large sums of money must be placed under the control of the German Government by the neutral ship owners; (4) as this control might operate to deprive vessels of their neutral character, the Associated Governments reserved the right to deal with any vessel which had subjected itself to enemy control as the circumstances in each case might warrant.

The Board also proposed that immediate steps should be taken to inform neutral peoples "of the details of the German threats and of the control which they would impose, and to educate these peoples as to the consequences which this control would entail according to the generally accepted principles of international law".

The War Trade Board's representative at London was informed on August 5 that the Board had agreed to modify the proposed communication to neutrals to meet wishes of the Allies.⁵ The third sentence was to be omitted and a final sentence to the following effect was to be added: A ship sailing under an enemy safe-conduct would become liable to detention until the conditions which the enemy government had attached to the issue of safe-conducts had been ascertained and scrutinized, in order that such action as the circumstances warranted might be taken. The Board did not favor making public the joint communication to neutrals. Announcement of this action would result in the public's exaggerating its character to a point where the Associated Governments would appear to be weak unless the announcement was followed up by "drastic action as to which we do not now wish to be committed."

The London representative reported that Great Britain considered it unwise to present this communication to neutral governments, as Germany could claim that the offer of safe-conducts mitigated the danger of sinking by submarines. Furthermore, if the communication were delivered to the neutral governments it would immediately become known to shipowners who would tend to keep their ships idle. Great Britain believed that the case of Sweden was different because Germany was reported to have made one of the conditions of granting a safe-conduct, that imports into Sweden should not be reimported to the Allies. If Sweden accepted this, it would be in violation of the agreement of May 29 with the Allies.⁶ Great Britain therefore proposed that a statement should be made jointly to Sweden and that a similar note should be sent to any other

⁵ Document 375.

⁶ See p. 110.

neutral country as soon as conditions imposed by German safe-conducts warranted such action.

The War Trade Board replied on August 13 to this British suggestion.⁷ Unless the Allied position was "promptly and forcibly expressed" the German Government would almost inevitably develop its safe-conduct system, as in the case of Sweden, to a point where the Allied Governments must take notice of it. The proposed course of action should forestall development of the safe-conduct system by Germany and assist neutral countries which were negotiating with Germany to secure the elimination of "the most obnoxious features of German control". If the British Government were prepared to make the proposed announcement to Sweden, and if later similar action might have to be taken in regard to other neutrals, the Board did not see the advantage of waiting and dealing with these situations in an isolated manner when they arose. The effect upon Germany and upon neutrals would be greater if at the outset the four Associated Governments communicated an identic statement. The War Trade Board preferred, however, to eliminate the last sentence which the Allies desired to add to the text of the statement proposed by the Board. The Board also preferred not to make public in any formal manner the text of the statement or the action of the Associated Governments in making the same. Finally, the Board reiterated its opinion that the Associated Governments should act immediately while German control by safe-conducts was "still a novelty" and on this account could perhaps be most effectively met.

NOTE OF SEPTEMBER 5, 1918

On August 21 the Secretary of State instructed the Ambassador in Great Britain on this subject.⁸ As it was impossible to secure British adherence to the proposal of the United States for a joint declaration on German safe-conducts, the Secretary agreed to the delivery by the four Associated Governments to the Swedish Government alone of a somewhat similar declaration. The contents of the declaration would be communicated to the ministers in other neutral European countries to enable them informally to acquaint the government to which they were accredited with the attitude expressed to the Swedish Government.

Secretary Lansing stated that he was not willing to adhere to a note which rested objection to safe-conducts merely on a supposed violation of the Swedish agreement. If the Associated Govern-

⁷ Document 377.

⁸ Document 378.

ments were officially to take cognizance of German safe-conducts, the United States must reserve its rights in a broad manner. Otherwise the four Governments might be put in the position of acquiescing in enemy control by safe-conducts, except where the control involved the violation of an agreement with the neutral. Accordingly, the Secretary was not willing to accept a form of communication for Sweden unless it included a general statement such as the one contained in the final sentence of the proposal of July 25.⁹

After receiving comment of the Allies on this proposal, the Secretary of State cabled the Ambassador in Great Britain, September 5, a note which the Legation in Sweden would present to the Swedish Government.¹⁰ Diplomatic representatives of the United States in Spain, Denmark, Norway, and the Netherlands would receive the text of the note, except the reference to the Swedish agreement, and would read it to the Minister of Foreign Affairs after consulting with Allied representatives, so as to secure, if possible, concurrent action. The note, to the following effect, was not to receive publicity: (1) the attempt of the German Government to control neutral shipping generally through a new device improperly termed a "safe conduct", constituted in fact a threat of illegal condemnation or destruction unless German control was accepted; (2) this control would extend to Germany's supervision of the personnel of passengers and crew, the character and consignment of cargo, and the movements of the vessel; (3) as this control might operate to deprive vessels of their neutral character, the United States reserved the right to deal with any vessel which had subjected itself to enemy control as the circumstances in each case might warrant; (4) Sweden was reminded that apart from the general results of the acceptance of such control, Sweden's acceptance would be contrary to the agreement of May 29 "in so far as it would tend to nullify its effect and to impede the exportation to the Associated Governments of manufactures from or with the aid of materials whose importation through the blockade is permitted for the specific purpose of the return of the finished article".

⁹ See p. 147.

¹⁰ Document 389.

CHAPTER X

INSTRUCTIONS FOR THE NAVY, JUNE 1917

BASES FOR THE INSTRUCTIONS

The Secretary of the Navy issued on June 30, 1917, *Instructions for the Navy of the United States Governing Maritime Warfare*.¹ These instructions were prepared in accordance with statutes of the United States, international law, and treaties and conventions to which the United States was a party; where no international agreement or treaty provision existed on any special point, in accordance with the "practice and attitude of the United States as hitherto determined by court decisions and Executive pronouncements."

BLOCKADE

The instructions provided that a blockade to be binding must be effective; it must be maintained by a force sufficient "to render ingress to or egress from the port dangerous." A blockade must be limited to the ports and coasts belonging to or occupied by the enemy; it must not bar access to neutral ports or coasts.

FREE SHIPS, FREE GOODS

A statement was made in the introduction to the instructions that the United States did not formally adhere to the Declaration of Paris of 1856 but had in practice followed its provisions. Article 2 of the Declaration of Paris was quoted in the body of the instructions: "The neutral flag covers enemy goods with the exception of contraband of war." Article 3 was also quoted: "Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag."

CONTRABAND OF WAR

Two weeks after the entrance of the United States into the war, Secretary of State Lansing had advised the President that the Government should issue a list of contraband, a general rather than a detailed list in order to avoid "frequent change and consequent con-

¹ Document 261.

fusion.”² Although the President then expressed approval,³ the list was not issued until June when it appeared in the instructions for the Navy.

The following articles and materials were regarded as contraband: (a) arms, guns, ammunition, explosives, and machines for their manufacture or repair; component parts thereof; materials or ingredients used in their manufacture; and articles for their use; (b) all contrivances for or means of transportation on land, in the water or air, and machines used in their manufacture or repair; component parts thereof; materials or ingredients used in their manufacture; and instruments, articles, or animals for their use; (c) all means of communication, tools, implements, instruments, equipment, maps, pictures, papers, and other articles, machines, or documents for carrying on hostile operations; (d) coin, bullion, currency, evidences of debt; and metal, materials, dies, plates, machinery, or other articles for their manufacture.

These articles and materials were liable to capture if actually destined to enemy territory or to armed forces of the enemy. It was immaterial whether carriage of the contraband to the actual destination was direct in the original vessel, or involved transshipment or transport overland. A hostile destination was presumed if the contraband was consigned “to order” or an unnamed consignee, “but in any case going to territory belonging to or occupied by the enemy, or to neutral territory in the vicinity thereof.”

Fuel, food, foodstuffs, feed, forage, and clothing and articles and materials used in their manufacture, were regarded as contraband and liable to capture if actually destined for the use of the enemy government or its armed forces. It was immaterial whether carriage of the contraband was direct in the original vessel, or involved transshipment or transport overland. A hostile destination was presumed if the contraband was consigned (1) to enemy authorities, (2) to a place of equipment or supply of enemy armed forces, or (3) to an agent in enemy territory who supplied articles of this kind to enemy authorities.

The Navy Department pointed out in 1918 that in these instructions there was no expressed distinction between absolute and conditional contraband; destination was the deciding factor.⁴

Great Britain inquired in April, 1918, whether the United States would concur in the following proposed additions to the British list of absolute contraband: (1) willows and osiers; (2) sodium fluoride; (3) tin waste; (4) tin and lead and their alloys, salts, compounds and ores; (5) wire steel and iron manufactures thereof.

² Document 247.

³ Document 248.

⁴ Document 357.

The Acting Secretary of State referred the question to the Navy Department with the comment that he would like, if possible, to reply that these articles were included in the list of June, 1917.⁵

The Navy Department replied that this contraband list was very comprehensive and embraced the items proposed to be added to the British list of absolute contraband.⁶ Willows and osiers were actually used or capable of being used in the manufacture of aircraft parts. Sodium fluoride was involved in the production of metallic aluminum which was extensively employed in the manufacture of arms and ammunition and in aircraft production. The other items were all "employed or capable of being employed" in the manufacture of munitions.

The British Ambassador was informed on July 10, 1918, that the items proposed for the list of British absolute contraband were regarded as included in the Navy list of June, 1917.⁷

Great Britain later proposed to add citric acid and citrates to the British list of absolute contraband and inquired whether the United States would be willing to take similar action. The Acting Secretary of State replied on July 18 that the United States regarded them as included in the contraband list of June, 1917.⁸ Citric acid was recognized as the active principle of lime juice, which was included in the naval ration of some governments "as an anti-scorbutic." Citrates were classed as drugs or medicines "useful to the armed forces as well as to the general population."

VISIT AND SEARCH

The instructions stipulated that the belligerent right of visit and search should be exercised with "tact and consideration" and in strict conformity with treaty provisions. The right might be exercised upon private vessels, except neutral vessels under convoy of warships of their own nationality, in order to determine the port of their destination and departure, the character of their cargo, the nature of their employment, their nationality, or other facts bearing on their relation to the war. If the ship's papers furnished conclusive evidence of the innocent character of the vessel, cargo, and voyage, the vessel should be released; if they furnished probable cause for capture, it should be seized and sent in for adjudication. The evidence furnished by the papers against a vessel would be conclusive. Regularity of papers and evidence of the innocence of cargo or destination furnished by them would be "not necessarily conclusive, and

⁵ Document 356.

⁶ Document 357.

⁷ Document 369.

⁸ Document 371.

if doubt exists, a search of the ship or cargo should be made to establish the facts."

PRIZES

According to the instructions, prizes should be sent for adjudication to a port within the jurisdiction of the United States, except under extraordinary circumstances. A prize master with a crew should be sent on board the prize for this purpose. If this was impracticable, a prize might be escorted into port by the capturing vessel or by another vessel of war of the United States or of an Ally. A neutral ship, except one engaged in direct unneutral service, must not be destroyed "save in case of the gravest military emergency", and it should not be destroyed until after visit and search and until after all persons on board had been placed in safety.

Great Britain inquired in August 1917, whether the United States would accede to a British-French convention of 1914 for determining jurisdiction for the adjudication of captures by their naval forces. This question was referred to the Navy Department, which stated that if enemy vessels were captured by the United States Navy it would be convenient to have in Allied ports "the necessary Admiralty Court machinery promptly to adjudicate in the matter of such prizes."⁹ Because of the absence of enemy merchant ships from the high seas and the small percentage of war vessels which might be captured and not sunk, serious complications were not anticipated. Furthermore, there was "ample authority and precedent" for captured vessels being taken into an Allied port and there held for convoy to the United States; or the vessel might be sold there and the proceeds sent to a United States court for adjudication.

The Navy Department further stated that, as Japan was not a party to the convention, accession by the United States might result in different rules of procedure in the Atlantic and Pacific. Finally, accession was inadvisable as it might be a "seeming approval of certain practices and principles" against which the United States had protested in its note of October 21, 1915.¹⁰

Great Britain was informed on February 13, 1918, that "in view of the present character of the war", the United States would defer consideration of the question of accession to the convention.¹¹

⁹ Document 311.

¹⁰ See p. 21.

¹¹ Document 322.

CHAPTER XI

OPERATIONS OF THE NAVY

THE NORTH SEA BARRAGE

The representative of the United States Navy at the Inter-Allied Conference of November-December, 1917, reported a joint decision to undertake with Great Britain "the closing of the North Sea by establishing and maintaining a mine barrage."¹ The Navy Department later explained that the purpose of this barrage was to prevent the exit of submarines from the North Sea.²

The British Admiralty issued a notice on April 26, 1918, that in view of Germany's unrestricted mine and submarine warfare against the Allies and against neutral shipping, "a prohibited area will be established in the North Sea on May 15, dangerous to all shipping, and should be avoided."³ The prohibited area was approximately fifty miles wide and extended from the territorial waters of Norway more than three-fourths of the distance across the North Sea toward the Orkney Islands. American and British naval forces began in June to lay mines in this area.

A few months later Norway was urged to adopt measures to prevent the passage of submarines through Norwegian territorial waters. In a communication which the American Chargé was instructed on August 27, 1918, to present to the Norwegian Government, it was stated that the United States and Great Britain were laying a barrage across the portion of the North Sea lying between Scotland and Norway.⁴ When this barrage was completed it would "effectively prevent the passage of enemy submarines to and from the Atlantic Ocean by the northern route through the North Sea", provided they were not permitted illegal passage through Norwegian territorial waters.

Shortly thereafter Norway decided to mine its territorial waters to prevent the passage of belligerent submarines.

In September American and British forces began to lay mines in an area which was a prolongation westward almost to the Orkney

¹ Document 302.

² Document 430.

³ Document 348.

⁴ Document 382.

Islands, of the area previously announced. A decision was then taken not to announce the second area but "to secretly route all shipping so as to avoid it, with the hope that submarines might still attempt to use it after it had been mined." After the armistice with Germany the second area was announced by the British Admiralty.⁵

TREATMENT OF NEUTRAL SHIPPING

The Navy Department stated on July 5, 1918, that the mandatory routing of neutral merchant vessels had not been practiced by the United States Navy.⁶ It later stated that, shortly after the United States entered the war, convoys of merchant vessels had been permitted to assemble in American ports.⁷ These vessels proceeded from the ports under escort according to convoy rules issued by the British Admiralty and approved by the Navy Department; rules which did not appear to the Navy to conflict with principles contended for in the American note of October 21, 1915. Vessels traveling in convoy were required to follow certain routes, and some were required to put into a port of call prior to the port of ultimate destination. The Navy concurred in these requirements for the purposes of giving safe routing instructions through dangerous sea areas, providing escort, or furnishing modified orders concerning destination. To enable vessels to pursue a safe route, the Navy Department had also concurred in British Admiralty instructions requiring vessels on long voyages to stop at an outlying routing station if they had sailed from a port at which no routing officer was stationed.

The Navy Department stated that it had "concurred in and indorsed" British routing instructions by allowing British routing officers to be established in American ports and by advising American vessels to obtain routing instructions from these officers. Routings were indorsed by the Navy solely to furnish vessels the safest possible course through waters made dangerous by enemy activities; they were "never indorsed for the purpose of causing vessels to be taken into port with the object of visit and search therein."

The Department of State inquired in January, 1919, whether vessels of the United States Navy had cooperated with British naval vessels in the execution of the plan of search and seizure contested in the note of October 21, 1915. The Navy Department replied that as detailed reports of the operations of the naval vessels had not been studied it was not then possible to state categorically that none had participated directly or indirectly in such search and seizure.⁸

⁵ Document 428.

⁶ Document 367.

⁷ Document 431.

⁸ Document 431.

Ten years later the statement was made that there was in the Navy Department "no record of any case of search and seizure" by vessels of the United States Navy, of the kind contested in the American note of October 21, 1915. The Navy Department also stated that although the belligerent right of visit and search of neutral ships was exercised constantly by the Navy during the war, it had no record of any neutral ships or cargoes being brought into port by vessels of the United States Navy for adjudication as prizes.

CHAPTER XII

FREEDOM OF THE SEAS

STATEMENTS OF PRESIDENT WILSON

President Wilson declared in an address of January 22, 1917, that the freedom of the seas was the "*sine qua non* of peace, equality, and cooperation."¹ Although a somewhat radical reconsideration of many rules of international practice might be necessary in order to make the seas free and common in practically all circumstances, he believed that the motive for such changes was "convincing and compelling." It need not be difficult, he stated, either to define or to secure the freedom of the seas if the governments of the world sincerely desired to reach an agreement on the subject. He considered the problem closely connected with the limitation of naval armaments and the cooperation of the navies of the world in keeping the seas free and safe.

Finally, the President stated that he proposed "that freedom of the seas which in international conference after conference representatives of the United States have urged with the eloquence of those who are the convinced disciples of liberty."

One year later, January 8, 1918, President Wilson announced his program of fourteen points.² Point II provided for absolute freedom of navigation upon the seas, "alike in peace and in war, except as the seas may be closed in whole or in part by international action." Point XIV provided that a "general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike."

The German Government notified the Government of the United States on October 6, 1918, that it accepted as a basis for peace negotiations the program laid down by President Wilson in this address, and in his subsequent pronouncements. The German Government requested the immediate conclusion of a general armistice.

ARMISTICE NEGOTIATIONS

The President sent Colonel House to Europe as his special representative to participate in armistice negotiations. House cabled

¹ Document 219.

² Document 307.

on October 29, for approval of the President, an analysis of the fourteen points.³ This analysis included a statement that point II, which must be read in connection with point XIV, referred to navigation under the three following conditions:

1. *General peace.* Under this condition there would be "freedom to come and go" on the high seas.

2. *A general war entered into by the league of nations to enforce international covenants.* Such a war would be conducted against an outlaw nation and complete non-intercourse with that nation was intended.

3. *A limited war involving no breach of international covenants.* This concerned the rights of neutral shipping and private property on the high seas during a war between a limited number of nations when that war involved no issue upon which the league of nations cared to take sides. In such a war the league would remain neutral and the rights of neutrals should be maintained against the belligerents, "the rights of both to be clearly and precisely defined in the law of nations."

The President replied that this analysis was a satisfactory interpretation of the principles involved "but details of application mentioned should be regarded as merely illustrative suggestions and reserved for peace conference".⁴

Colonel House cabled a statement of the British Prime Minister on October 29, that so far as Great Britain was concerned, point II of the President's peace program could not be accepted without qualification.⁵ Lloyd George admitted that point II might possibly be acceptable if it was made a part of point XIV concerning the league of nations. He did not wish to discuss freedom of the seas with Germany, and if it was a condition of peace Great Britain could not agree to it. The Prime Minister stated later on the same day that Great Britain could not accept point II under any circumstances as it took away from Great Britain the power of blockade.

President Wilson cabled Colonel House on October 30 that he could not consent to participate in the negotiation of a peace which did not include freedom of the seas.⁶ On the following day the President cabled that he recognized the exceptional position and necessities of Great Britain with regard to the use of the seas.⁷ He also realized that the freedom of the seas needed careful definition and was full of questions upon which there should be free discussion and a liberal exchange of views. Blockade, the President stated, would "require immediate redefinition in view of the many new circumstances of warfare". There was no danger of its being

³ Document 410.

⁴ Document 411.

⁵ Document 412.

⁶ Document 413.

⁷ Document 415.

abolished. Finally, the freedom of the seas would not have to be discussed with Germany "if we agree among ourselves beforehand".

On November 3 Colonel House cabled a letter from the British Prime Minister regarding point II, in which the latter stated that the British were willing to discuss the freedom of the seas "in the light of the new conditions" which had arisen during the war.⁷ On the following day House cabled a memorandum by the Allies which included a statement that they were willing to make peace with Germany on the terms laid down by the President in his address of January 8, 1918, and in his subsequent addresses.⁸ However, as point II, relating to the freedom of the seas, was open to various interpretations, some of which they could not accept, they must "reserve to themselves complete freedom on this subject when they enter the peace conference."

The Government of the United States transmitted this Allied memorandum to the German Government on November 5, with no comment on the reservation regarding the freedom of the seas.⁹ On November 11, 1918, the armistice with Germany was signed.

The principle of the freedom of the seas was not considered in the plenary sessions of the Paris Peace Conference. President Wilson explained in September 1919, that it was one of the principles he went to Paris most insisting on. The freedom of the seas meant, he stated, the right of neutrals to use the seas when other nations were at war. Under the league of nations, however, there were "no neutrals". Therefore, "by the very thing I was advocating it became unnecessary to define the freedom of the seas."

⁷ Document 417.

⁸ Document 418.

⁹ Document 419.

DOCUMENTS

DOCUMENTS

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*The Declaration of London, February 26, 1909*¹

[Translation]

HIS Majesty the German Emperor, King of Prussia; the President of the United States of America; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Majesty the Queen of the Netherlands; His Majesty the Emperor of All the Russias.

Having regard to the terms in which the British Government invited various Powers to meet in conference in order to arrive at an agreement as to what are the generally recognized rules of international law within the meaning of Article 7 of the Convention of 18th October, 1907, relative to the establishment of an International Prize Court;

Recognizing all the advantages which an agreement as to the said rules would, in the unfortunate event of a naval war, present, both as regards peaceful commerce, and as regards the belligerents and their diplomatic relations with neutral Governments;

Having regard to the divergence often found in the methods by which it is sought to apply in practice the general principles of international law;

Animated by the desire to insure henceforward a greater measure of uniformity in this respect;

Hoping that a work so important to the common welfare will meet with general approval;

Have appointed as their Plenipotentiaries, that is to say:

His Majesty the German Emperor, King of Prussia:

¹ Foreign Relations, 1909, p. 318.

Signed in French only. This translation agrees substantially with that submitted to the Senate by the President (Executive A, 61st Cong., 1st sess.). It differs slightly from the translation contained in the *General Report Presented to the Naval Conference on Behalf of Its Drafting Committee* (Treaty C-5, Unperfected Treaty File; Executive A, 61st Cong., 1st sess.).

Ratification of the Declaration of London was advised by the United States Senate on Apr. 24, 1912, but it was not ratified by the President.

M. Kriege, Privy Councillor of Legation and Legal Adviser to the Department for Foreign Affairs, Member of the Permanent Court of Arbitration.

The President of the United States of America :

Rear-Admiral Charles H. Stockton, retired ;

Mr. George Grafton Wilson, Professor at Brown University and Lecturer on International Law at the Naval War College and at Harvard University.

His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary :

His Excellency M. Constantin Thoédore Dumba, Privy Councillor of His Imperial and Royal Apostolic Majesty, Envoy Extraordinary and Minister Plenipotentiary.

His Majesty the King of Spain :

M. Gabriel Maura y Gamazo, Count de la Mortera, Member of Parliament.

The President of the French Republic :

M. Louis Renault, Professor of the Faculty of Law at Paris, Honorary Minister Plenipotentiary, Legal Adviser to the Ministry of Foreign Affairs, Member of the Institute of France, Member of the Permanent Court of Arbitration.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India :

The Earl of Desart, K. C. B., King's Proctor.

His Majesty the King of Italy :

M. Guido Fusinato, Councillor of State, Member of Parliament, ex-Minister of Public Instruction, Member of the Permanent Court of Arbitration.

His Majesty the Emperor of Japan :

Baron Toshiatsu Sakamoto, Vice-Admiral, Head of the Department of Naval Instruction.

M. Enjiro Yamaza, Councillor of the Imperial Embassy at London.

Her Majesty the Queen of the Netherlands :

His Excellency Jonkheer J. A. Roell, Aide-de-Camp to Her Majesty the Queen in Extraordinary Service, Vice-Admiral retired, ex-Minister of Marine.

Jonkheer L. H. Ruyssenaers, Envoy Extraordinary and Minister Plenipotentiary, ex-Secretary-General of the Permanent Court of Arbitration.

His Majesty the Emperor of all the Russias :

Baron Taube, Doctor of Laws, Councillor to the Imperial Ministry of Foreign Affairs, Professor of International Law at the University St. Petersburg.

Who, after having communicated their full powers, found to be in good and due form, have agreed to make the present Declaration:—

PRELIMINARY PROVISION

The Signatory Powers are agreed that the rules contained in the following Chapters correspond in substance with the generally recognized principles of international law.

CHAPTER I. *Blockade in Time of War*

ARTICLE 1

A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy.

ARTICLE 2

In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding must be effective,—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coastline.

ARTICLE 3

The question whether a blockade is effective is a question of fact.

ARTICLE 4

A blockade is not regarded as raised if the blockading force is temporarily withdrawn on account of stress of weather.

ARTICLE 5

A blockade must be applied impartially to the ships of all nations.

ARTICLE 6

The Commander of a blockading force may give permission to a warship to enter, and subsequently to leave, a blockaded port.

ARTICLE 7

In circumstances of distress, acknowledged by an officer of the blockading force, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she has neither discharged nor shipped any cargo there.

ARTICLE 8

A blockade, in order to be binding, must be declared in accordance with Article 9, and notified in accordance with Articles 11 and 16.

ARTICLE 9

A declaration of blockade is made either by the blockading Power or by the naval authorities acting in its name.

It specifies—

- (1) The date when the blockade begins;
- (2) The geographical limits of the coastline under blockade;
- (3) The period within which neutral vessels may come out.

ARTICLE 10

If the operations of the blockading Power, or of the naval authorities acting in its name, do not tally with the particulars, which, in accordance with Article 9 (1) and (2), must be inserted in the declaration of blockade, the declaration is void, and a new declaration is necessary in order to make the blockade operative.

ARTICLE 11

A declaration of blockade is notified—

(1) To neutral Powers, by the blockading Power by means of a communication addressed to the Governments direct, or to their representatives accredited to it;

(2) To the local authorities, by the officer commanding the blockading force. The local authorities will, in turn, inform the foreign consular officers at the port or on the coastline under blockade as soon as possible.

ARTICLE 12

The rules as to declaration and notification of blockade apply to cases where the limits of a blockade are extended, or where a blockade is re-established after having been raised.

ARTICLE 13

The voluntary raising of a blockade, as also any restriction in the limits of a blockade, must be notified in the manner prescribed by Article 11.

ARTICLE 14

The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive, of the blockade.

ARTICLE 15

Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade to the Power to which such port belongs, provided that such notification was made in sufficient time.

ARTICLE 16

If a vessel approaching a blockaded port has no knowledge, actual or presumptive, of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the blockading force. This notification should be entered in the vessel's logbook, and must state the day and hour, and the geographical position of the vessel at the time.

If, through the negligence of the officer commanding the blockading force, no declaration of blockade has been notified to the local authorities, or, if in the declaration, as notified, no period has been mentioned within which neutral vessels may come out, a neutral vessel coming out of the blockaded port must be allowed to pass free.

ARTICLE 17

Neutral vessels may not be captured for breach of blockade except within the area of operations of the warships detailed to render the blockade effective.

ARTICLE 18

The blockading forces must not bar access to neutral ports or coasts.

ARTICLE 19

Whatever may be the ulterior destination of a vessel or of her cargo, she cannot be captured for breach of blockade, if, at the moment, she is on her way to a non-blockaded port.

ARTICLE 20

A vessel which has broken blockade outwards, or which has attempted to break blockade inwards, is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected.

ARTICLE 21

A vessel found guilty of breach of blockade is liable to condemnation. The cargo is also condemned, unless it is proved that at the time of the shipment of the goods the shipper neither knew nor could have known of the intention to break the blockade.

CHAPTER II. *Contraband of War*

ARTICLE 22

The following articles may, without notice² be treated as contraband of war, under the name of absolute contraband:—

(1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

²The phrase "without notice" reads "de plein droit" in the French text.

(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

(3) Powder and explosives specially prepared for use in war.

(4) Gun-mountings, limber boxes, limbers, military waggons, field forges, and their distinctive component parts.

(5) Clothing and equipment of a distinctively military character.

(6) All kinds of harness of a distinctively military character.

(7) Saddle, draught, and pack animals suitable for use in war.

(8) Articles of camp equipment, and their distinctive component parts.

(9) Armour plates.

(10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.

(11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

ARTICLE 23

Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified.

Such notification must be addressed to the Governments of other Powers, or to their representatives accredited to the Power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral Powers.

ARTICLE 24

The following articles, susceptible of use in war as well as for purposes of peace, may, without notice,² be treated as contraband of war, under the name of conditional contraband:—

(1) Foodstuffs.

(2) Forage and grain, suitable for feeding animals.

(3) Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.

(4) Gold and silver in coin or bullion; paper money.

(5) Vehicles of all kinds available for use in war, and their component parts.

(6) Vessels, craft, and boats of all kinds; floating docks, parts of docks and their component parts.

(7) Railway material, both fixed and rolling-stock, and material for telegraphs, wireless telegraphs, and telephones.

(8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.

²The phrase "without notice" reads "de plein droit" in the French text.

- (9) Fuel; lubricants.
- (10) Powder and explosives not specially prepared for use in war.
- (11) Barbed wire and implements for fixing and cutting the same.
- (12) Horseshoes and shoeing materials.
- (13) Harness and saddlery.
- (14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

ARTICLE 25

Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in Articles 22 and 24, may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

ARTICLE 26

If a Power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in Articles 22 and 24, such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

ARTICLE 27

Articles which are not susceptible of use in war may not be declared contraband of war.

ARTICLE 28

The following may not be declared contraband of war:—

- (1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.
- (2) Oil seeds and nuts; copra.
- (3) Rubber, resins, gums, and laes; hops.
- (4) Raw hides and horns, bones and ivory.
- (5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.
- (6) Metallic ores.
- (7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.
- (8) Chinaware and glass.
- (9) Paper and paper-making materials.
- (10) Soap, paint and colours, including articles exclusively used in their manufacture, and varnish.
- (11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.

- (12) Agricultural, mining, textile, and printing machinery.
- (13) Precious and semi-precious stones, pearls, mother-of-pearl, and coral.
- (14) Clocks and watches, other than chronometers.
- (15) Fashion and fancy goods.
- (16) Feathers of all kinds, hairs, and bristles.
- (17) Articles of household furniture and decoration; office furniture and requisites.

ARTICLE 29

Likewise the following may not be treated as contraband of war:

(1) Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in Article 30.

(2) Articles intended for the use of the vessel in which they are found, as well as those intended for the use of her crew and passengers during the voyage.

ARTICLE 30

Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transshipment or a subsequent transport by land.

ARTICLE 31

Proof of the destination specified in Article 30 is complete in the following cases:—

(1) When the goods are documented for discharge in an enemy port, or for delivery to the armed forces of the enemy.

(2) When the vessel is to call at enemy ports only, or when she is to touch at an enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.

ARTICLE 32

Where a vessel is carrying absolute contraband, her papers are conclusive proof as to the voyage on which she is engaged, unless she is found clearly out of the course indicated by her papers and unable to give adequate reasons to justify such deviation.

ARTICLE 33

Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a government department of the enemy State, unless in this latter case the circumstances

show that the goods cannot in fact be used for the purposes of the war in progress. This latter exception does not apply to a consignment coming under Article 24 (4).

ARTICLE 34

The destination referred to in Article 33 is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises in the case of a merchant vessel bound for one of these places if it is sought to prove that she herself is contraband.

In cases where the above presumptions do not arise, the destination is presumed to be innocent.

The presumptions set up by this Article may be rebutted.

ARTICLE 35

Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

The ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

ARTICLE 36

Notwithstanding the provisions of Article 35, conditional contraband, if shown to have the destination referred to in Article 33, is liable to capture in cases where the enemy country has no seaboard.

ARTICLE 37

A vessel carrying goods liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole of her voyage, even if she is to touch at a port of call before reaching the hostile destination.

ARTICLE 38

A vessel may not be captured on the ground that she has carried contraband on a previous occasion if such carriage is in point of fact at an end.

ARTICLE 39

Contraband goods are liable to condemnation.

ARTICLE 40

A vessel carrying contraband may be condemned if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

ARTICLE 41

If a vessel carrying contraband is released, she may be condemned to pay the costs and expenses incurred by the captor in respect of the proceedings in the national prize court and the custody of the ship and cargo during the proceedings.

ARTICLE 42

Goods which belong to the owner of the contraband and are on board the same vessel are liable to condemnation.

ARTICLE 43

If a vessel is encountered at sea while unaware of the outbreak of hostilities or of the declaration of contraband which applies to her cargo, the contraband cannot be condemned except on payment of compensation; the vessel herself and the remainder of the cargo are not liable to condemnation or to the costs and expenses referred to in Article 41. The same rule applies if the master, after becoming aware of the outbreak of hostilities, or of the declaration of contraband, has had no opportunity of discharging the contraband.

A vessel is deemed to be aware of the existence of a state of war, or of a declaration of contraband, if she left a neutral port subsequently to the notification to the Power to which such port belongs of the outbreak of hostilities or of the declaration of contraband respectively, provided that such notification was made in sufficient time. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the outbreak of hostilities.

ARTICLE 44

A vessel which has been stopped on the ground that she is carrying contraband, and which is not liable to condemnation on account of the proportion of contraband on board, may, when the circumstances permit, be allowed to continue her voyage if the master is willing to hand over the contraband to the belligerent warship.

The delivery of the contraband must be entered by the captor on the logbook of the vessel stopped, and the master must give the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband that has been handed over to him under these conditions.

CHAPTER III. *Unneutral Service*

ARTICLE 45

A neutral vessel will be condemned and will, in a general way, receive the same treatment as a neutral vessel liable to condemnation for carriage of contraband:—

(1) If she is on a voyage specially undertaken with a view to the transport of individual passengers who are embodied in the armed forces of the enemy, or with a view to the transmission of intelligence in the interest of the enemy.

(2) If, to the knowledge of either the owner, the charterer, or the master, she is transporting a military detachment of the enemy, or one or more persons who, in the course of the voyage, directly assist the operations of the enemy.

In the cases specified under the above heads, goods belonging to the owner of the vessel are likewise liable to condemnation.

The provisions of the present Article do not apply if the vessel is encountered at sea while unaware of the outbreak of hostilities, or if the master, after becoming aware of the outbreak of hostilities, has had no opportunity of disembarking the passengers. The vessel is deemed to be aware of the existence of a state of war if she left an enemy port subsequently to the outbreak of hostilities, or a neutral port subsequently to the notification of the outbreak of hostilities to the Power to which such port belongs, provided that such notification was made in sufficient time.

ARTICLE 46

A neutral vessel will be condemned and, in a general way, receive the same treatment as would be applicable to her if she were an enemy merchant vessel:

(1) If she takes a direct part in the hostilities;

(2) If she is under the orders or control of an agent placed on board by the enemy Government;

(3) If she is in the exclusive employment of the enemy Government;

(4) If she is exclusively engaged at the time either in the transport of enemy troops or in the transmission of intelligence in the interest of the enemy.

In the cases covered by the present Article, goods belonging to the owner of the vessel are likewise liable to condemnation.

ARTICLE 47

Any individual embodied in the armed forces of the enemy who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.

CHAPTER IV. *Destruction of Neutral Prizes*

ARTICLE 48

A neutral vessel which has been captured may not be destroyed by the captor; she must be taken into such port as is proper for the determination there of all questions concerning the validity of the capture.

ARTICLE 49

As an exception, a neutral vessel which has been captured by a belligerent warship, and which would be liable to condemnation, may be destroyed if the observance of Article 48 would involve danger to the safety of the warship or to the success of the operations in which she is engaged at the time.

ARTICLE 50

Before the vessel is destroyed all persons on board must be placed in safety, and all the ship's papers and other documents which the parties interested consider relevant for the purpose of deciding on the validity of the capture must be taken on board the warship.

ARTICLE 51

A captor who has destroyed a neutral vessel must, prior to any decision respecting the validity of the prize, establish that he only acted in the face of an exceptional necessity of the nature contemplated in Article 49. If he fails to do this, he must compensate the parties interested and no examination shall be made of the question whether the capture was valid or not.

ARTICLE 52

If the capture of a neutral vessel is subsequently held to be invalid, though the act of destruction has been held to have been justifiable, the captor must pay compensation to the parties interested, in place of the restitution to which they would have been entitled.

ARTICLE 53

If neutral goods not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.

ARTICLE 54

The captor has the right to demand the handing over, or to proceed himself to the destruction of, any goods liable to condemnation found on board a vessel not herself liable to condemnation, provided that the circumstances are such as would, under Article 49, justify the destruction of a vessel herself liable to condemnation. The captor must enter the goods surrendered or destroyed in the log-book of the vessel stopped, and must obtain duly certified copies of all relevant papers. When the goods have been handed over or destroyed, and the formalities duly carried out, the master must be allowed to continue his voyage.

The provisions of Articles 51 and 52 respecting the obligations of a captor who has destroyed a neutral vessel are applicable.

CHAPTER V. *Transfer to a Neutral Flag*

ARTICLE 55

The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of, the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages.

ARTICLE 56

The transfer of an enemy vessel to a neutral flag effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There, however, is an absolute presumption that a transfer is void :

(1) If the transfer has been made during a voyage or in a blockaded port.

(2) If a right to repurchase or recover the vessel is reserved to the vendor.

(3) If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled.

CHAPTER VI. *Enemy Character*

ARTICLE 57

Subject to the provisions respecting transfer to another flag, the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly.

The case where a neutral vessel is engaged in a trade which is closed in time of peace, remains outside the scope of, and is in no wise affected by, this rule.

ARTICLE 58

The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner.

ARTICLE 59

In the absence of proof of the neutral character of goods found on board an enemy vessel, they are presumed to be enemy goods.

ARTICLE 60

Enemy goods on board an enemy vessel retain their enemy character until they reach their destination, notwithstanding any transfer effected after the outbreak of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of an existing enemy owner, a recognized legal right to recover the goods, they regain their neutral character.

CHAPTER VII. *Convoy*

ARTICLE 61

Neutral vessels under national convoy are exempt from search. The commander of a convoy gives, in writing, at the request of the commander of a belligerent warship, all information as to the character of the vessels and their cargoes, which could be obtained by search.

ARTICLE 62

If the commander of the belligerent warship has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to investigate the matter. He must record the result of such investigation in a report, of which a copy is handed to the officer of the warship. If, in the opinion of the commander of the convoy, the facts shown in the report justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.

CHAPTER VIII. *Resistance to Search*

ARTICLE 63

Forcible resistance to the legitimate exercise of the right of stoppage, search, and capture, involves in all cases the condemnation of the vessel. The cargo is liable to the same treatment as the cargo of an enemy vessel. Goods belonging to the master or owner of the vessel are treated as enemy goods.

CHAPTER IX. *Compensation*

ARTICLE 64

If the capture of a vessel or of goods is not upheld by the prize court, or if the prize is released without any judgment being given, the parties interested have the right to compensation, unless there were good reasons for capturing the vessel or goods.

FINAL PROVISIONS

ARTICLE 65

The provisions of the present Declaration must be treated as a whole, and cannot be separated.

ARTICLE 66

The Signatory Powers undertake to insure the mutual observance of the rules contained in the present Declaration in any war in which all the belligerents are parties thereto. They will therefore issue the necessary instructions to their authorities and to their armed forces, and will take such measures as may be required in order to insure that it will be applied by their courts, and more particularly by their prize courts.

ARTICLE 67

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited in London.

The first deposit of ratifications shall be recorded in a Protocol signed by the Representatives of the Powers taking part therein, and by His Britannic Majesty's Principal Secretary of State for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the British Government, and accompanied by the instrument of ratification.

A duly certified copy of the Protocol relating to the first deposit of ratifications, and of the notifications mentioned in the preceding paragraph as well as of the instruments of ratification which accompany them, shall be immediately sent by the British Government, through the diplomatic channel, to the Signatory Powers. The said Government shall, in the cases contemplated in the preceding paragraph, inform them at the same time of the date on which it received the notification.

ARTICLE 68

The present Declaration shall take effect, in the case of the Powers which were parties to the first deposit of ratifications, sixty days after the date of the Protocol recording such deposit, and, in the case of the Powers which shall ratify subsequently, sixty days after the notification of their ratification shall have been received by the British Government.

ARTICLE 69

In the event of one of the Signatory Powers wishing to denounce the present Declaration, such denunciation can only be made to take effect at the end of a period of twelve years, beginning sixty days after the first deposit of ratifications, and, after that time, at the end of successive periods of six years, of which the first will begin at the end of the period of twelve years.

Such denunciation must be notified in writing, at least one year in advance, to the British Government, which shall inform all the other Powers.

It will only operate in respect of the denouncing Power.

ARTICLE 70

The Powers represented at the London Naval Conference attach particular importance to the general recognition of the rules which they have adopted, and therefore express the hope that the Powers

which were not represented there will accede to the present Declaration. They request the British Government to invite them to do so.

A Power which desires to accede shall notify its intention in writing to the British Government, and transmit simultaneously the act of accession, which will be deposited in the archives of the said Government.

The said Government shall forthwith transmit to all the other Powers a duly certified copy of the notification, together with the act of accession, and communicate the date on which such notification was received. The accession takes effect sixty days after such date.

In respect of all matters concerning this Declaration, acceding Powers shall be on the same footing as the Signatory Powers.

ARTICLE 71

The present Declaration, which bears the date of the 26th February, 1909, may be signed in London up till the 30th June, 1909, by the Plenipotentiaries of the Powers represented at the Naval Conference.

In faith whereof the Plenipotentiaries have signed the present Declaration, and have thereto affixed their seals.

Done at London, the twenty-sixth day of February, one thousand nine hundred and nine, in a single original, which shall remain deposited in the archives of the British Government, and of which duly certified copies shall be sent through the diplomatic channel to the Powers represented at the Naval Conference.

[Here follow the signatures³]

2

*Proclamation of Neutrality, August 4, 1914*⁴

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas a state of war unhappily exists between Austria-Hungary and Servia and between Germany and Russia and between Germany and France; And Whereas the United States is on terms of friend-

³ The list of signatures appended to the Declaration on Feb. 26, 1909, are as follows: For Germany, Kriege; for the United States of America, C. H. Stockton, George Grafton Wilson; for Austria-Hungary, C. Dumba; for France, L. Renault; for Great Britain, Desart; for the Netherlands, J. A. Roell, L. H. Ruysenaers.

By June 30, 1909, the following countries had acceded to the Declaration: Italy, Japan, Russia, and Spain.

⁴ Proclamation No. 1271; For. Rel., 1914, supp., p. 547.

ship and amity with the contending powers, and with the persons inhabiting their several dominions;

And Whereas there are citizens of the United States residing within the territories or dominions of each of the said belligerents and carrying on commerce, trade, or other business or pursuits therein;

And Whereas there are subjects of each of the said belligerents residing within the territory or jurisdiction of the United States, and carrying on commerce, trade, or other business or pursuits therein;

And Whereas the laws and treaties of the United States, without interfering with the free expression of opinion and sympathy, or with the commercial manufacture or sale of arms or munitions of war, nevertheless impose upon all persons who may be within their territory and jurisdiction the duty of an impartial neutrality during the existence of the contest;

And Whereas it is the duty of a neutral government not to permit or suffer the making of its waters subservient to the purposes of war;

Now, Therefore, I, WOODROW WILSON, President of the United States of America, in order to preserve the neutrality of the United States and of its citizens and of persons within its territory and jurisdiction, and to enforce its laws and treaties, and in order that all persons, being warned of the general tenor of the laws and treaties of the United States in this behalf, and of the law of nations, may thus be prevented from any violation of the same, do hereby declare and proclaim that by certain provisions of the act approved on the 4th day of March, A. D. 1909, commonly known as the "Penal Code of the United States" the following acts are forbidden to be done, under severe penalties, within the territory and jurisdiction of the United States, to-wit:—

1. Accepting and exercising a commission to serve either of the said belligerents by land or by sea against the other belligerent.
2. Enlisting or entering into the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.
3. Hiring or retaining another person to enlist or enter himself in the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.
4. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.
5. Hiring another person to go beyond the limits of the United States with intent to be entered into service as aforesaid.
6. Retaining another person to go beyond the limits of the United States with intent to be enlisted as aforesaid.
7. Retaining another person to go beyond the limits of the United States with intent to be entered into service as aforesaid.

(But the said act is not to be construed to extend to a citizen or subject of either belligerent who, being transiently within the United States, shall, on board of any vessel of war, which, at the time of its arrival within the United States, was fitted and equipped as such vessel of war, enlist or enter himself or hire or retain another subject or citizen of the same belligerent, who is transiently within the United States, to enlist or enter himself to serve such belligerent on board such vessel of war, if the United States shall then be at peace with such belligerent.)

8. Fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or knowingly being concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of either of the said belligerents.
9. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.
10. Increasing or augmenting, or procuring to be increased or augmented, or knowingly being concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which at the time of her arrival within the United States was a ship of war, cruiser, or armed vessel in the service of either of the said belligerents, or belonging to the subjects of either, by adding to the number of guns of such vessels, or by changing those on board of her for guns of a larger calibre, or by the addition thereto of any equipment solely applicable to war.
11. Beginning or setting on foot or providing or preparing the means for any military expedition or enterprise to be carried on from the territory or jurisdiction of the United States against the territories or dominions of either of the said belligerents.

And I do hereby further declare and proclaim that any frequenting and use of the waters within the territorial jurisdiction of the United States by the armed vessels of a belligerent, whether public ships or privateers, for the purpose of preparing for hostile operations, or as posts of observation upon the ships of war or privateers or merchant vessels of a belligerent lying within or being about to enter the jurisdiction of the United States, must be regarded as unfriendly and offensive, and in violation of that neutrality which it is the determination of this government to observe; and to the end that the hazard and inconvenience of such apprehended practices may be avoided, I further proclaim and declare that from and after the fifth day of August instant, and during the continuance of the present hostilities between Austria-Hungary and Servia, and Germany and Russia, and Germany and France, no ship of war or privateer of any belligerent shall be permitted to make use of any port,

harbor, roadstead, or waters subject to the jurisdiction of the United States from which a vessel of an opposing belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the jurisdiction of the United States. If any ship of war or privateer of a belligerent shall, after the time this notification takes effect, enter any port, harbor, roadstead, or waters of the United States, such vessel shall be required to depart and to put to sea within twenty-four hours after her entrance into such port, harbor, roadstead, or waters, except in case of stress of weather or of her requiring provisions or things necessary for the subsistence of her crew, or for repairs; in any of which cases the authorities of the port or of the nearest port (as the case may be) shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel which may have been permitted to remain within the waters of the United States for the purpose of repair shall continue within such port, harbor, roadstead, or waters for a longer period than twenty-four hours after her necessary repairs shall have been completed, unless within such twenty-four hours a vessel, whether ship of war, privateer, or merchant ship of an opposing belligerent, shall have departed therefrom, in which case the time limited for the departure of such ship of war or privateer shall be extended so far as may be necessary to secure an interval of not less than twenty-four hours between such departure and that of any ship of war, privateer, or merchant ship of an opposing belligerent which may have previously quit the same port, harbor, roadstead, or waters. No ship of war or privateer of a belligerent shall be detained in any port, harbor, roadstead, or waters of the United States more than twenty-four hours, by reason of the successive departures from such port, harbor, roadstead, or waters of more than one vessel of an opposing belligerent. But if there be several vessels of opposing belligerents in the same port, harbor, roadstead, or waters, the order of their departure therefrom shall be so arranged as to afford the opportunity of leaving alternately to the vessels of the opposing belligerents, and to cause the least detention consistent with the objects of this proclamation. No ship of war or privateer of a belligerent shall be permitted, while in any port, harbor, roadstead, or waters within the jurisdiction of the United States, to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry

such vessel, if without any sail power, to the nearest port of her own country; or in case the vessel is rigged to go under sail, and may also be propelled by steam power, then with half the quantity of coal which she would be entitled to receive, if dependent upon steam alone, and no coal shall be again supplied to any such ship of war or privateer in the same or any other port, harbor, roadstead, or waters of the United States, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within the waters of the United States, unless such ship of war or privateer shall, since last thus supplied, have entered a port of the government to which she belongs.

And I do further declare and proclaim that the statutes and the treaties of the United States and the law of nations alike require that no person, within the territory and jurisdiction of the United States, shall take part, directly or indirectly, in the said wars, but shall remain at peace with all of the said belligerents, and shall maintain a strict and impartial neutrality.

And I do hereby enjoin all citizens of the United States, and all persons residing or being within the territory or jurisdiction of the United States, to observe the laws thereof, and to commit no act contrary to the provisions of the said statutes or treaties or in violation of the law of nations in that behalf.

And I do hereby warn all citizens of the United States, and all persons residing or being within its territory or jurisdiction that, while the free and full expression of sympathies in public and private is not restricted by the laws of the United States, military forces in aid of a belligerent cannot lawfully be originated or organized within its jurisdiction; and that, while all persons may lawfully and without restriction by reason of the aforesaid state of war manufacture and sell within the United States arms and munitions of war, and other articles ordinarily known as "contraband of war", yet they cannot carry such articles upon the high seas for the use or service of a belligerent, nor can they transport soldiers and officers of a belligerent, or attempt to break any blockade which may be lawfully established and maintained during the said wars without incurring the risk of hostile capture and the penalties denounced by the law of nations in that behalf.

And I do hereby give notice that all citizens of the United States and others who may claim the protection of this government, who may misconduct themselves in the premises, will do so at their peril, and that they can in no wise obtain any protection from the government of the United States against the consequences of their misconduct.

In Witness Whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fourth day of August in the year of our Lord one thousand nine hundred and four-
[SEAL] teen and of the independence of the United States of America the one hundred and thirty-ninth.

WOODROW WILSON

By the President:

WILLIAM JENNINGS BRYAN
Secretary of State.

3

*The Secretary of State to the Vice President of the Board of Trade of Kansas City (D. F. Piazzek)*⁴

WASHINGTON, August 5, 1914.

SIR: The Department begs to acknowledge the receipt of your telegram of July 31st, referring to shipment of grain from this country to Europe and requesting the United States Government to approach the powers who may be involved in war to the end that a declaration may be obtained from the powers to the effect that grain may proceed in neutral vessels without molestation to destination whatever same may be. Furthermore that grain shipped for export should remain safe from seizure even if shipped in a vessel belonging to one or the other of the powers that may be at war whatever its destination; further that ships which have sailed or are being loaded for export before a possible declaration of war should be respected in any case for whatever port they may be destined or to whatever flag they may belong.

It is not probable that the countries now engaged in war would consent at this time to any modification of the rules of international law respecting the relations between belligerents and the rights of neutrals.

Under generally accepted principles of international law, grain may be shipped by a neutral to a country at war unless such grain is intended for the use of the army or navy or some department of the government of the country at war; or unless the port for which the grain is destined is in a state of blockade or is occupied by the army or navy of the belligerents. If the grain is not liable to capture for either of the reasons stated above, it cannot be confiscated even if sent by a vessel flying the flag of one of the belligerents. It is needless to suggest, however, that the capture of the ship on

⁴ File No. 763.72112/1; For. Rel., 1914, supp., p. 271.

which the grain was being carried under such conditions would prevent the grain reaching its intended destination.

I am [etc.]

For the Secretary of State:

ROBERT LANSING

Counselor

4

*The Secretary of State to the Ambassador in Great Britain (Page)*⁶

[Telegram]

WASHINGTON, August 6, 1914, 1 p.m.

You are instructed to inquire of the British Government whether they are willing to agree that the laws of naval warfare laid down by the Declaration of London, 1909, shall be applicable to naval warfare during the present European conflict provided that the governments with whom Great Britain is or may be at war also agree to such application. You will further state that this Government believes that acceptance of these laws by the belligerents would prevent grave misunderstandings which may arise as to the relations between belligerent and neutral powers. It, therefore, earnestly hopes that this inquiry may receive favorable consideration.

W. J. BRYAN

5

*The Ambassador in Germany (Gerard) to the Secretary of State*⁶

[Telegram]

BERLIN, August 7, 1914—12 midnight.

[Received August 9—6 a.m.]

Foreign Office informs me German ports strewn with mines and request that shippers be warned in time against navigating in ports which might serve as bases for foreign forces.⁷

GERARD

⁶ File No. 763.72112/48a; For. Rel., 1914, supp., p. 216.

The same, *mutatis mutandis*, on the same date, to the Ambassadors in Austria-Hungary, France, Germany, and Russia, and the Minister in Belgium.

⁷ File No. 763.72/257; For. Rel., 1914, supp., p. 454.

⁸ The exact text of the German verbal note of Aug. 7, 1914 (File No. 763.72/13469), which is thus inaccurately summarized, was not received in the Department of State until 1920, when it was found to have been as follows:

The Foreign Office has the honor to inform the Embassy of the United States of America that during the state of war in which the German Empire now finds itself, the necessity will arise, according to prospects, of blockading with mines the points of departure for attacks on the part of hostile fleets against Germany, and the ports of shipment, departing and arriving, of troop transports.

The Foreign Office begs the United States Embassy to bring this to the knowledge of its Government as soon as possible in order that shipping may be warned in due time against entering harbors and roadsteads which may serve as bases for the hostile forces.

6

*The Secretary of State to Representative John H. Stephens*⁸

[Telegram]

WASHINGTON, August 8, 1914.

Referring to telegram from Wichita Mill and Elevator Company, wheat and provisions are classed as conditional contraband of war under generally accepted principles of international law, and therefore subject to capture and confiscation by belligerent vessel if destined for a belligerent government, its army or navy, or its port blockaded or held by military forces; if not so destined they are not contraband of war. Holland is not now at war and wheat and foodstuffs destined for use in that country not considered contraband of war. Persons are free to sell or ship foodstuffs from United States in ordinary commercial transactions without violating United States neutrality laws. Pending passage of bill before Congress, foreign boats referred to may not be registered in United States. This Government could not well furnish escort for fleet of grain steamers as such escort might involve United States in serious complications.

W. J. BRYAN

7

*The Secretary of State to the President*⁹

[WASHINGTON,] August 10, 1914.

MY DEAR MR. PRESIDENT: I beg to communicate to you an important matter which has come before the Department. Morgan Company of New York have asked whether there would be any objection to their making a loan to the French Government and also the Rothschilds—I suppose that is intended for the French Government. I have conferred with Mr. Lansing and he knows of no legal objection to financing this loan, but I have suggested to him the advisability of presenting to you an aspect of the case which is not legal but I believe to be consistent with our attitude in international matters. It is whether it would be advisable for this Government to take the position that it will not approve of any loan to a belligerent nation. The reasons that I would give in support of this proposition are:

First: Money is the worst of all contrabands because it commands everything else. The question of making loans contraband by international agreement has been discussed, but no action has been taken. I know of nothing that would do more to prevent war than an inter-

⁸ File No. 763.72112/64; For. Rel., 1914, supp., p. 274.

⁹ File No. 763.72111/35½a.

national agreement that neutral nations would not loan to belligerents. While such an agreement would be of great advantage, could we not by our example hasten the reaching of such an agreement? We are the one great nation which is not involved and our refusal to loan to any belligerent would naturally tend to hasten a conclusion of the war. We are responsible for the use of our influence through example and as we cannot tell what we can do until we try, the only way of testing our influence is to set the example and observe its effect. This is the fundamental reason in support of the suggestion submitted.

Second: There is a special and local reason, it seems to me, why this course would be advisable. Mr. Lansing observed in the discussion of the subject that a loan would be taken by those in sympathy with the country in whose behalf the loan was negotiated. If we approved of a loan to France we could not, of course, object to a loan to Great Britain, Germany, Russia, Austria or to any other country, and if loans were made to these countries our citizens would be divided into groups, each group loaning money to the country which it favors and this money could not be furnished without expressions of sympathy. These expressions of sympathy are disturbing enough when they do not rest upon pecuniary interests—they would be still more disturbing if each group was pecuniarily interested in the success of the nation to whom its members had loaned money.

Third: The powerful financial interests which would be connected with these loans would be tempted to use their influence through the newspapers to support the interests of the Government to which they had loaned because the value of the security would be directly affected by the result of the war. We would thus find our newspapers violently arrayed on one side or the other, each paper supporting a financial group and pecuniary interest. All of this influence would make it all the more difficult for us to maintain neutrality, as our action on various questions that would arise would affect one side or the other and powerful financial interests would be thrown into the balance.

I am to talk over the telephone with Mr. Davidson of the Morgan Company at one o'clock, but I will have him delay final action until you have time to consider this question.

It grieves me to be compelled to intrude any question upon you at this time, but I am sure you will pardon me for submitting a matter of such great importance.

With assurances [etc.]

W. J. BRYAN

P.S. Mr. Lansing calls attention to the fact that an American citizen who goes abroad and voluntarily enlists in the army of a belligerent nation loses the protection of his citizenship while so

engaged, and asks why dollars, going abroad and enlisting in war, should be more protected. As we cannot prevent American citizens going abroad at their own risk, so we cannot prevent dollars going abroad at the risk of the owners, but the influence of the Government is used to prevent American citizens from doing this. Would the Government not be justified in using its influence against the enlistment of the nation's dollars in a foreign war? The Morgans say that the money would be spent here but the floating of these loans would absorb the loanable funds and might affect our ability to borrow.

8

*The Secretary of State to the British Chargé (Barclay)*¹⁰

MEMORANDUM

The Secretary of State presents his compliments to His Britannic Majesty's Chargé d'Affaires and acknowledges the receipt of his Memorandum of August 11, 1914, communicating a telegram received by him from the Foreign Office stating that the Germans are scattering contact mines indiscriminately in the open waters of the North Sea without regard to the consequences to merchantmen, thus rendering these waters perilous to the shipping of all nations, and that in view of the methods adopted by Germany the British Admiralty hold themselves at liberty to adopt similar measures in self defense, thus increasing the dangers to navigation in the North Sea.

It is not stated in the Memorandum whether the contact mines are floating or anchored, but it is presumed from the expression "scattering contact mines indiscriminately" that it was the intention to convey the idea that the mines referred to are floating mines.

The limitation placed upon the use of floating contact mines by Article 1 of The Hague Convention of 1907 relative to the Laying of Automatic Submarine Contact Mines¹¹ is that they shall become harmless within one hour after being laid.

The Secretary of State is loath to believe that a signatory to that Convention would wilfully disregard its treaty obligation, which was manifestly made in the interest of neutral shipping.

All restrictions upon the rights of neutrals upon the high seas, the common highway of nations, during the progress of a war, are permitted in the interests of the belligerents, who are bound in return to prevent their hostile operations from increasing the hazard of neutral ships in the open sea so far as the exigencies of the war permit.

¹⁰ File No. 763.72/566; For. Rel., 1914, supp., p. 455.

¹¹ For. Rel., 1907, p. 1223.

If an enemy of His Majesty's Government has, as asserted, endangered neutral commerce by an act in violation of The Hague Convention, which cannot be justified on the ground of military necessity, the Secretary of State perceives no reason for His Majesty's Government adopting a similar course, which would add further dangers to the peaceful navigation of the high seas by vessels of neutral powers.

The Secretary of State, therefore, expresses the earnest and confident hope that His Majesty's Government may not feel compelled to resort, as a defensive measure, to a method of naval warfare, which would appear to be contrary to the terms of The Hague Convention and impose upon the ships and lives of neutrals a needless menace when peaceably navigating the high seas.^{11a}

WASHINGTON, *August 13, 1914.*

9

*Public Circular Issued by the Department of State, August 15, 1914*¹²

NEUTRALITY

All citizens of and persons within the United States are under legal duty to observe neutrality during the war in Europe; this duty is demarked in the neutrality laws and in the President's Proclamation. The following acts are violative of neutrality and are forbidden under penalty of law:

"1. Accepting and exercising a commission to serve either of the said belligerents by land or by sea against the other belligerent.

"2. Enlisting or entering into the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

"3. Hiring or retaining another person to enlist or enter himself in the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

^{11a} The British Chargé replied on Aug. 19, 1914, in part as follows:

"... there is no doubt whatever that automatic contact mines have been placed by Germany in the high seas where they are dangerous to merchant shipping, as a German mine-laying vessel was caught in the act. It is not alleged that they are a breach of any convention concluded at The Hague to which Germany is a party, but that does not make them less dangerous to merchant shipping." (File No. 763.72/552; For. Rel., 1914, supp., p. 457.)

The German Government stated on Nov. 7, 1914, that the Hague Convention of 1907 relating to the laying of automatic submarine contact mines had not been ratified by Russia and was "not binding by international law on any of the participants in the present war". (File No. 763.72/1268; For. Rel., 1914, supp., p. 467.)

¹² File No. 763.72111/161; For. Rel., 1914, supp., p. 274.

"4. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.

"5. Hiring another person to go beyond the limits of the United States with intent to be entered into service as aforesaid.

"6. Retaining another person to go beyond the limits of the United States with intent to be enlisted as aforesaid.

"7. Retaining another person to go beyond the limits of the United States with intent to be entered into service as aforesaid. (But the said act is not to be construed to extend to a citizen or subject of either belligerent who, being transiently within the United States, shall, on board of any vessel of war, which, at the time of its arrival within the United States, was fitted and equipped as such vessel of war, enlist or enter himself or hire or retain another subject or citizen of the same belligerent, who is transiently within the United States, to enlist or enter himself to serve such belligerent on board such vessel of war, if the United States shall then be at peace with such belligerent.)

"8. Fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or knowingly being concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of either of the said belligerents.

"9. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.

"10. Increasing or augmenting, or procuring to be increased or augmented, or knowingly being concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which at the time of her arrival within the United States was a ship of war, cruiser, or armed vessel in the service of either of the said belligerents, or belonging to the subjects of either, by adding to the number of guns of such vessels, or by changing those on board of her for guns of a larger caliber, or by the addition thereto of any equipment solely applicable to war.

"11. Beginning or setting on foot or providing or preparing the means for any military expedition or enterprise to be carried on from the territory or jurisdiction of the United States against the territories or dominions of either of the said belligerents."

COMMERCE BETWEEN THIS COUNTRY AND COUNTRIES AT WAR NOT SUSPENDED

The existence of war between foreign governments does not suspend trade or commerce between this country and those at war. This right to continue to trade with belligerents is upheld by the well-recognized principles of international law, subject to the exceptions herein noted.

CONTRABAND

The subject of contraband of war is too comprehensive to admit of a statement covering all phases of the question. But certain general statements, it is believed, will be of service to those interested:

1. The sale or shipment of contraband of war by citizens of the United States to citizens or subjects of any of the belligerent powers, in course of commerce, is not prohibited by the neutrality laws or the President's Proclamation. But contraband, whether shipped in vessels of the belligerents or neutrals, is subject to seizure and confiscation by the belligerents, and when so seized is not entitled to the protection or intervention of this Government.

2. Contraband of war is ranked under two heads, namely, absolute and conditional.

Absolute contraband includes those articles which are peculiarly adapted to war, such as arms and ammunition and military and naval equipment.

When absolute contraband *is destined to one of the countries at war, whether to the government or to an individual of that country*, it is subject to seizure and confiscation by any of the opposing belligerents when beyond the territory of the neutral government from which it is shipped.

3. The nationality of the vessel in which contraband of war is shipped is immaterial; it is subject to capture and destruction whether shipped in a neutral or enemy vessel.

4. Conditional contraband consists, generally speaking, of articles which are susceptible of use in war as well as for purposes of peace; in consequence, their destination determines whether they are contraband or noncontraband.

Articles of the character stated are considered contraband if destined to the army, navy, or department of government of one of the belligerents or to a place occupied and held by military forces; if not so destined they are not contraband, as, for example, when bound to an individual or private concern.

5. What is contraband of war is to be determined by international law and usage, influenced in some degree by the positions assumed by the belligerents. As there is no final tribunal for the definite determination of these international questions, they are not as determinable as questions of domestic law. There are no general treaties amongst the nations of the world determinative of contraband of war. The London Convention, 1908-9, though signed by the delegates of the countries at war, of the United States and of other countries, was not ratified by the signatory governments, and is valuable only as indicating the disposition of the governments represented. This convention may be found in *Compilations of Treaties*, available in most public libraries.

Great Britain and Germany have made declarations on contraband since the outbreak of hostilities, which declarations follow rather closely the London Convention:^{12a}

^{12a} Document 1.

ENGLISH DECLARATION ON CONTRABAND

"Absolute contraband:

- (1) Arms of all kinds, including arms for sporting purposes and their distinctive component parts.
- (2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
- (3) Powder and explosives especially prepared for use in war.
- (4) Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.
- (5) Clothing and equipment of a distinctively military character.
- (6) All kinds of harness of a distinctively military character.
- (7) Saddle, draught, and pack animals suitable for use in war.
- (8) Articles of camp equipment, and their distinctive component parts.
- (9) Armour plates.
- (10) Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.
- (11) Aeroplanes, airships, balloons, and air craft of all kinds and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and air craft.
- (12) Implements and apparatus designed exclusively for the manufacture of munitions of war and for the manufacture or repair of arms, or war material for use on land and sea.

The following articles will be treated as conditional contraband:

- (1) Foodstuffs.
- (2) Forage and grain suitable for feeding animals.
- (3) Clothing, fabrics for clothing, and boots and shoes suitable for use in war.
- (4) Gold and silver in coin or bullion; paper money.
- (5) Vehicles of all kinds available for use in war and their component parts.
- (6) Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
- (7) Railway material, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
- (8) Fuel; lubricants.
- (9) Powder and explosives not specially prepared for use in war.
- (10) Barbed wire and implements for fixing and cutting the same.
- (11) Horseshoes and shoeing materials.
- (12) Harness and saddlery.
- (13) Field glasses, telescopes, chronometers, and all kinds of nautical instruments."

GERMAN DECLARATION ON CONTRABAND

"Foreign Office communicates list of articles and materials which German Government, pursuant to Nos. 21, 23 of prize ordinance of September 30, 1909, *Reichstag Gazette*, page 275, declares contraband of war. They correspond exactly as regards absolute contraband to article 22, Nos. 1 to [11] inclusive, of the Declaration of London, and as regards conditional contraband to article 24, Nos. 1 to 14. They further state that ordinance mentioned contains substance of the Declaration of London; that Germany will apply these laws provided that the other belligerents do not disregard them. Foreign Office requests to be informed regarding attitude of the other Powers."

It is supposed that the declarations of the other belligerents will, in the main, agree with those of England and Germany.

SEIZURE OF VESSELS AND CARGOES

Vessels flying the flag of one of the belligerents are subject to seizure and confiscation by the opposing belligerents. Contraband of war on board of such vessel is, of course, subject to confiscation, though the property of a neutral.

Goods, not contraband, belonging to a neutral aboard a captured vessel are subject to delay and interruption consequent upon the seizure of the vessel, but not to confiscation, upon manifestation of neutral ownership and the noncontraband character of the goods.

When a vessel containing cargo of a citizen of the United States is captured and is carried before a prize court, as it will be presumably, he should give notice of his claim of property to the prize court authorities and be prepared to furnish proof of his ownership and the noncontraband character of his goods.

Goods of a neutral, not contraband of war, shipped on a neutral vessel are not rightfully subject to seizure or confiscation by any of the belligerents, and it is not presumed that the vessels of neutrals carrying only noncontraband cargoes will be interfered with.

GENERALLY

It should be borne in mind that the foregoing advices are based upon the most generally accepted principles of international law and usage and are general and advisory only, the Department being unable to forecast the precise course or position of the belligerent governments in particular instances.

The Department takes pleasure in answering specific inquiries from interested parties. Hypothetical questions not related to actual transactions should be avoided.

CONE JOHNSON

Solicitor

WASHINGTON, August 15, 1914.

10

*The Secretary of State to J. P. Morgan and Company*¹³

[Telegram]

WASHINGTON, August 15, 1914.

Inquiry having been made as to the attitude of this Government in case American bankers are asked to make loans to foreign governments during the war in Europe, the following announcement is made:

"There is no reason why loans should not be made to the governments of neutral nations, but in the judgment of this Government, loans by American bankers to any foreign nation which is at war are inconsistent with the true spirit of neutrality.["]

W. J. BRYAN

11

*The Ambassador in Great Britain (Page) to the Secretary of State*¹⁴

[Telegram]

LONDON [undated].

[Received August 26, 1914—9.15 p.m.]

483. My 461 and yours of August 24th.

Following text of Foreign Office note regarding Declaration of London together with explanation and Order in Council, telegraphed as instructed.

"Foreign Office, [London].

22nd August, 1914.

On the 7th instant you were so good as to address to me a note enquiring pursuant to instructions from the Secretary of State at Washington whether His Majesty's Government [were] willing to agree that the laws of naval warfare as laid down by the Declaration of London 1909 should be applicable to naval warfare during the present European conflict provided that the governments with whom Great Britain is at war or with whom her relations are not normal also agree to such application.

Your Excellency added that it was belief of your Government that the acceptance of these laws by the belligerents would prevent the possibility of grave misunderstandings [as] to the relations between belligerents and neutrals.

I have the honour to inform Your Excellency that His Majesty's Government, who attach great importance to the views expressed in Your Excellency's note, and are animated by a keen desire to consult so far as possible the interests of neutral countries, have given this matter most careful consideration and I have pleasure in stating that

¹³ File No. 763.72111/484a; For. Rel., 1914, supp., p. 580.

¹⁴ File No. 763.72112/111; For. Rel., 1914, supp., p. 218.

they have decided to adopt generally the rules of the Declaration in question subject to certain modifications and additions which they judge indispensable to the efficient conduct of their naval operations.

A detailed explanation of these additions and modifications is contained in the inclosed memorandum.

The necessary steps to carry the above decision into effect have now been taken by the issue of an Order in Council of which I have the honour to inclose copies herein for Your Excellency's information and for transmission to your Government.

I may add that His Majesty's Government in deciding to adhere to the rules of the Declaration of London subject only to the aforesaid modifications and additions have not waited to learn the intentions of the enemy governments but have been actuated by a desire to terminate at the earliest moment the condition of uncertainty which has been prejudicing the interests of neutral trade.

I have [etc.]

E. A. Crowe

MEMORANDUM

1. The lists of contraband already published by His Majesty¹⁵ are substituted for those contained in Articles 22 and 24 of the Declaration of London. Lists similar to those published by His Majesty have already been issued [by] the French Government.

2. His Majesty's Government do not feel able to accept in its entirety the rule laid down in Article 38 of the Declaration. It has been the practice of the British Navy to treat as liable to capture a vessel which carried contraband of war with false papers if she was encountered while on the return voyage and to this exception His Majesty's Government feel it necessary to adhere.

3. The peculiar conditions in the present war due to the fact that neutral ports such as Rotterdam are the chief means of access to a large part of Germany and that exceptional measures have been taken in the enemy country for the control by the Government of the entire supply of foodstuffs have convinced His Majesty's Government that modifications are required in the applications of Articles 34 and 35 of the Declaration. These modifications are contained in paragraphs 3 and 5 of the accompanying Order in Council.

4. Article 15 of the Declaration contains a provision as to presumptive knowledge of the blockade in certain cases if the vessel has sailed from a neutral port. No mention is made of British or allied enemy ports. These omissions are supplied by Article 4 of the Order in Council.

5. The Order in Council also provides for the acceptance of the very valuable commentary on the Declaration which was embodied in the general report prepared by Monsieur Renault."

Following is text of Order in Council.

At the Court at Buckingham Palace, the 20th day of August, 1914. Present, The King's Most Excellent Majesty in Council.

¹⁵ File No. 763.72112/26; For. Rel., 1914, supp., p. 215. These lists correspond to the lists in arts. 22 and 24 of the Declaration of London, with the exception of the transfer of aircraft from the conditional classification to the absolute.

Whereas, during the present hostilities the naval forces of His Majesty will cooperate with the French and Russian naval forces, and

Whereas, it is desirable that the naval operations of the allied forces so far as they affect neutral ships and commerce should be conducted on similar principles, and

Whereas, the Governments of France and Russia have informed His Majesty's Government that during the present hostilities it is their intention to act in accordance with the provisions of the convention known as the Declaration of London signed on the 26th day of February, 1909, so far as may be practicable.

Now, therefore, His Majesty, by and with the advice of his Privy Council is pleased to order and it is hereby ordered that during the present hostilities the convention known as the Declaration of London shall, subject to the following additions and modifications, be adopted and put in force by His Majesty's Government as if the same had been ratified by His Majesty:—The additions and modifications are as follows.

(1) The lists of absolute and conditional contraband contained in the proclamation dated August 4th 1914, shall be substituted for the lists contained in Articles 22 and 24 of the said Declaration.

(2) A neutral vessel which succeeded in carrying contraband to the enemy with false papers may be detained for having carried such contraband if she is encountered before she has completed her return [voyage].

(3) The destination referred to in Article 33 may be inferred from any sufficient evidence and (in addition to presumption laid down in Article 34) shall be presumed to exist if the goods are consigned to or for an agent of the enemy state or to or for a merchant or other person under the control of the authorities of the enemy state.

(4) The existence of a blockade shall be presumed to be known.

(a) To all ships which sailed from or touched at an enemy [port] a sufficient time after the notification of the blockade to the local authorities to have enabled the enemy government to make known the existence of the blockade.

(b) To all ships which sailed from or touched at a British or allied port after the publication of the declaration of blockade.

(5) Notwithstanding the provisions of Article 35 of the said declaration conditional contraband if shown to have the destination referred to in Article 33 is liable to capture to whatever port the vessel is bound and at whatever port the cargo is to be discharged.

(6) The general report of the drafting committee on the said Declaration presented to the Naval Conference and adopted by the conference at the eleventh plenary meeting on February 25th, 1909, shall be considered by all prize courts as an authoritative statement of the meaning and intention of the said Declaration and such courts shall construe and interpret the provisions of the said Declaration by the light of the commentary given therein.

And the Lords Commissioners [of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each] of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce and Admiralty Division of the High Court of Justice, all other judges of His Majesty's Prize Courts and all governors, officers and authorities whom it may concern are to give the necessary directions herein as to them may respectively appertain.

Almeric FitzRoy"

AMERICAN AMBASSADOR

12

*The Acting Secretary of State to Mr. William H. Libby*¹⁶

WASHINGTON, September 22, 1914.

SIR: The Department acknowledges the receipt of your letter of September 18th, and, in reply, begs leave to say that the action which the Department may appropriately take at this time in the matter submitted by you will be for the Department to submit requests to the governments of the countries at war for a more specific declaration on contraband covering ordinary illuminating oil of commerce, consigned to industrial concerns.

The Department deems it hardly advisable to comply with your request for an intimation as to the extent to which the Government of the United States would support your contention that illuminating oil is distinctly exempt from contraband classification, in view of the present indefinite attitude of the several belligerents on the subject of contraband, as applied to petroleum and its products.

If you desire the Department to do so, it will submit through diplomatic officers a request for a more specific declaration by the belligerent powers.

I am [etc.]

For the Acting Secretary of State:

JOHN E. OSBORNE

Assistant Secretary

13

*The Acting Secretary of State to the Ambassador in Great Britain (Page)*¹⁷

WASHINGTON, September 26, 1914.

SIR: On August 6th last this Government sent telegraphic instructions to its missions at London, Paris, Berlin, Vienna, St. Petersburg

¹⁶ File No. 763.72112/140; For. Rel., 1914, supp., p. 295.

¹⁷ File No. 763.72112/126; For. Rel., 1914, supp., p. 225.

and Brussels to inquire whether the governments at those capitals were willing to agree that the laws of naval warfare laid down by the Declaration of London, 1909, shall be applicable to the present European conflict provided that the countries at war all agree to such application. This Government expressed the belief that the acceptance of the Declaration by the belligerents would prevent grave misunderstandings which might arise as to the relations between belligerents and neutral powers, and it, therefore, earnestly hoped that its inquiry might receive favorable consideration.

To this inquiry the governments at Berlin and Vienna replied that the Declaration of London would be observed by them upon condition of a like observance on the part of their adversaries. This Government has now been informed by a note of the British Foreign Office, dated August 22nd, inclosing a Memorandum of the British Government and also an Order in Council, dated the 20th ultimo, that the British Government have adopted the Declaration of London, of 1909, with certain modifications and additions. Advices have also reached this Government that the French and Russian Governments have adhered to the position of the British Government in respect to the Declaration of London. As yet, however, no reply to the American inquiry has been received from the Government of Belgium.

As the inquiry of this Government had no reference to the adoption of the Declaration of London except in its entirety and by all of the great Powers at war, the announcement that the Government of Great Britain would adopt the Declaration with certain modifications and additions regardless of the attitude of their adversaries, is not, I regret to say, an acceptance of the American proposition. The inquiry was made in the hope that by unanimous consent of the interested governments the differences of opinion as to the rights and duties of nations in time of war, which have heretofore vexed belligerent and neutral governments and been the cause of controversy long after war has ended, would be removed in the present conflict by the acceptance of a definite naval code governing international relations while a state of war continued. The act of this Government in making this inquiry was one of expediency. It did not, and does not now, consider the Declaration of London standing alone as the best and most equitable of naval war codes, particularly as respects neutral nations, but it seemed available in the emergency and most probable of acceptance by the maritime Powers involved in or affected by the war and signatories to the instrument.

While the Government of the United States felt keen disappointment that His Majesty's Government deemed it necessary to refuse to accept the Declaration of London without amendment, it has

given to the new code proposed by His Majesty's Government, which consists of the Declaration modified and enlarged, careful and friendly examination in the hope that it might be found to impose no additional burdens upon neutral commerce and to change so slightly the relationship between belligerents and neutrals that this Government might advocate its general acceptance. I regret to say, however, that such is not the conclusion which this Government has reached from its examination. The reasons for this conclusion will be briefly set forth.

Naturally and properly this Government has examined the proposed modifications and additions from the viewpoint of a neutral, whose normal rights in time of peace have already been restricted by new duties imposed upon it because of a state of war. The Declaration of London contemplated a state of war, but it also contemplated the special machinery for the application of its rules in specific cases, as provided in Article 7 of the Hague Convention of 1907 for the establishment of an International Prize Court. It will be recalled that Great Britain objected to that Article and made their acceptance of the Convention conditional upon an agreement of the Powers as to certain definite rules of law which should be binding upon the proposed Prize Court. The reason stated for insisting upon this condition was the uncertainty of the law of naval warfare which might be applied by an international court composed of jurists of different nationalities, having contrary views as to certain important rules of naval warfare, which lacked the sanction of general acceptance.

In order to remove this uncertainty and at the instance of Great Britain, the Naval Conference was called at London in 1908. It resulted in the signature of the Declaration of London in 1909. It is, however, well known that the Declaration of London has not been ratified by any country represented at the Conference, and no ratifications have been deposited in London in accordance with Article 67 of the Declaration. All of the other signatory Powers have awaited the affirmative action of Great Britain, which, it is understood, has been indefinitely postponed. As a consequence of this failure to accept the Declaration, the International Prize Court, whose establishment was conditional upon this acceptance, has not been organized.

A great safeguard of neutral rights is therefore wanting. The International Prize Court was to consist of not less than nine or more than fifteen judges, a majority of whom, with substantial certainty, would be of neutral nationalities. A court thus constituted was regarded by the nations as especially fitted to render impartial decisions in matters affecting the relations of belligerents and neutrals.

Without the power to appeal to a tribunal so constituted the application of the Declaration by the national courts of the belligerents would impose sufficient hardship upon neutral commerce, but the enforcement by those courts of the Declaration changed and modified, so that belligerent rights are enlarged at the expense of neutral rights, would be manifestly objectionable to neutral nations whose rights are impaired.

Although the International Prize Court has not been constituted and although it cannot well be called into being during the present conflict, the United States stands ready either to accept the Declaration as a whole, provided all of the belligerents accept it, or to accept it for the period of the war with modifications and additions acceptable, on the one hand, to the United States and the Netherlands, the two neutral signatories, and, on the other hand, to all of the belligerents.

This Government in seeking general acceptance of the Declaration as a code of naval warfare for the present war had in mind the adoption of the Declaration as a whole and not such part of it as might be acceptable to certain belligerents and not to other belligerents. It considered that the Declaration was to be applied as a complete code of which no rule could be ignored or supplemented, and in so doing it followed Article 65 of the Declaration, which stipulates: "The provisions of the present Declaration must be treated as a whole and cannot be separated."

The only reasonable explanation for the inclusion in the Declaration of this requirement is that the instrument is composed largely of compromises on the part of the Governments represented at the Conference. Although the Declaration is introduced with a general statement that "the signatory powers are agreed" that the rules contained in the Declaration "correspond in substance with the generally recognized principles of international law", the proceedings of the Conference as well as the documents relating to it prove that an agreement on many of the articles was reached through reciprocal concessions. Being conceived in compromise and concession the Declaration was accepted by the Government of the United States at the Conference in London in the earnest hope that it might finally compose the differences which existed as to neutral rights and neutral duties, although in so accepting this Government was compelled to abandon certain rules of conduct which it had theretofore always maintained.

As might be expected in a settlement of divergent views and practices by mutual concession the Declaration of London contains provisions both advantageous and disadvantageous to the respective interests of neutrals and belligerents. But it is now proposed by Great Britain to retain all the provisions favorable to belligerents

and to recast other provisions so that they will be less favorable to neutral interests. The result is a set of rules which limits neutrals' rights far more than does the Declaration itself treated as a whole. War, in any event, bears heavily upon a neutral nation. The interruption of its commerce and the limitations placed upon its trade are sufficiently burdensome under the rules of the Declaration of London. In consenting to those rules the Government of the United States made great concessions on its part and it does not feel that it can, in justice to its own people, go further. It cannot consent to the retention of a part of this compromise settlement and to the rejection of another part. The adoption of the Declaration so modified is contrary to the customary procedure incident to compromise settlements, to the express provisions of the Declaration itself, and to the spirit which induced its signature.

Passing now to a consideration of the modifications and additions proposed by Great Britain, this Government is constrained to state that Articles 3, 5, and 6 of the Order in Council are wholly unacceptable. As to the other Articles of the Order in Council it is not deemed necessary at present to express the views of this Government.

Articles 3 and 5 read as follows:

(3) The destination referred to in Article 33 [of the Declaration of London]¹⁸ may be inferred from any sufficient evidence, and (in addition to the presumption laid down in Article 34) shall be presumed to exist if the goods are consigned to or for an agent of the Enemy State or to or for a merchant or other person under the control of the authorities of the Enemy State.

(5) Notwithstanding the provisions of Article 35 of the said Declaration, conditional contraband, if shown to have the destination referred to in Article 33, is liable to capture to whatever port the vessel is bound and at whatever port the cargo is to be discharged.

These articles strike at the very root of the indubitable right of neutrals to continue their industrial and commercial enterprises with the minimum inconvenience and confusion, which are inevitable consequences of a maritime war. To concede the existence of such a right as is asserted by these articles of the Order in Council, would be to make neutral trade between neutral ports dependent upon the pleasure of belligerents, and give to the latter the advantages of an established blockade without the necessity of maintaining it with an adequate naval force. The effect of this asserted right suggests the result which was sought by the so called "paper blockades" which have been discredited for a century, and were repudiated by the Declaration of Paris.¹⁹

¹⁸ Bracketed expression, which is not a part of order in council, appears on file copy of the Secretary's communication.

¹⁹ See vol. I, document 109, p. 381.

Furthermore, serious misunderstandings may be anticipated from the wording of Article 3 of the Order in Council. The expression "any sufficient evidence" is vague and indefinite. With a belligerent as the sole judge of what is "sufficient evidence" to create an inference as to destination it will be difficult, if not impossible, for neutrals to know in advance the meaning to be given these words, and this element of uncertainty will be a serious deterrent to the free exercise of those commercial rights, of which neutrals ought not to be deprived. Again, the phrase "to or for an agent of the enemy state" fails to define whether the agent intended is one located in enemy or neutral territory, although the language of Article 5 is open to either construction. Furthermore the expression "to or for a merchant or other person under the control of the authorities of the enemy state" is broad enough to cover any person within enemy jurisdiction, including aliens as well as nationals. It may even be interpreted to apply to a subject or citizen of the enemy state in neutral territory, if such person acts under the instructions of his Government. It is evident that the use of language, which is so uncertain in meaning and which is capable of such latitude of interpretation, is in itself highly prejudicial to the neutral rights of commerce.

Passing now to Article 5 of the Order in Council, it is manifest that this article nullifies the words "and when it is not to be discharged in an intervening neutral port" which appear in Article 35 of the Declaration of London. This then is a reversion to the doctrine of continuous voyage in the matter of conditional contraband, which was abandoned by the London Conference according to the official report of the drafting committee. Destination to enemy territory is not, and cannot properly be, considered a good and sufficient ground for seizure of food-stuffs or other conditional contraband, unless they are destined for the use of the armed forces or of a government department of the enemy state. Yet it is proposed by this Article of the Order in Council to expose to capture all classes of conditional contraband on an inference based upon "any sufficient evidence", with presumptive guilt is consigned "to or for a merchant or other person under the control of the authorities of the enemy state;" and upon such an inference and presumption it is further proposed that all classes of conditional contraband shall be "liable to capture to whatever port the vessel is bound and at whatever port the cargo is discharged."

The United States has always insisted that food-stuffs are legitimate articles of commerce, and that mere destination to an enemy port is not of itself justification for their seizure or confiscation. The claim now advanced by Great Britain is not only opposed to the

traditional policy of the United States, but it appears to be inconsistent with the position formerly maintained by Great Britain, both as a neutral and as a belligerent. In 1885, France notified foreign powers that "in view of the conditions under which the war with China was being actually conducted," it had decided to treat rice as contraband of war. Lord Granville, at that time Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, admitted that provisions might acquire a contraband character under particular circumstances—if, for example, they were consigned directly to the fleet of a belligerent, or to a port where such a fleet was lying; but he declared there must be, in any event, "circumstances relative to any particular cargo, or its destination, to displace the presumption that articles of this kind are intended for the ordinary use of life and to show, *prima facie*, at all events, that they are destined for military use."

During the recent war in South Africa, when Great Britain was a belligerent, the language of Lord Salisbury, speaking as Prime Minister and Secretary of State for Foreign Affairs, was in striking accord with the language used by Lord Granville, when Great Britain was neutral. Lord Salisbury then said, in an incident, in which the United States was involved, that "Food-stuffs, with a hostile destination, can be considered contraband of war only if they are supplies for the enemy's forces. It is not sufficient that they are capable of being so used; it must be shown that this was in fact their destination at the time of the seizure."

Both of these distinguished statesmen laid down a doctrine as to neutral trade in conditional contraband, which was undoubtedly in accord with the generally accepted principles of international law. It was that doctrine which was written into the Declaration of London, and which His Majesty's Government are now apparently seeking to change upon grounds similar to those advanced by France in 1885, which Lord Granville considered insufficient.

This Government, therefore, feels compelled to state that Articles 3 and 5 of the Order in Council are inadmissible in themselves, and that the purpose for which they have apparently been devised, as explained by the Memorandum of the Foreign Office—namely, to intercept neutral commerce on its way to a neutral nation—is, in the opinion of this Government, equally inadmissible.

Turning now to Article 6 of the Order in Council it will be observed that this Article proposes to make the "Joint [*General*] Report of the Drafting Committee," which is a series of comments upon the articles of the Declaration, binding upon all prize courts. The Report is in the language of the Order in Council to be "considered by all prize courts as an authoritative statement of the meaning and in-

tention of the Declaration, and such courts shall construe and interpret the provisions of the Declaration by the light of the commentary given therein." It is the intent, therefore, to give to this commentary equal authority in law with the Declaration itself. In giving its consent to the ratification of the Declaration the Senate of the United States did not include the report in that consent. It is also contrary to the long established practice of the system of jurisprudence of this country to make any commentary upon the law binding upon the courts of justice. In view of the lack of senatorial sanction and the uniform practice of its tribunals, the Government of the United States cannot acquiesce in the proposal to make the views of a committee of the Conference, however sanctioned by the Conference, an integral part of the Declaration itself.

In addition to the foregoing reasons the Government of the United States feels that its acquiescence in the position of Great Britain in regard to the Declaration of London might create or tend to create duties or incapacities on the part of the United States as a neutral nation, which the adversaries of Great Britain, having upon the suggestion of the United States expressed their willingness to adopt the Declaration of London without change, might regard as evidence of unfriendliness to them. The United States cannot permit itself to be placed in a position where its neutrality and impartiality are doubtful or open to question.

Furthermore, if the modifications were acceptable to this Government, it would be unwilling, by accepting them, to prejudice the rights of the Netherlands, the other signatory of the Declaration neutral in the present war, whose interests, as the Memorandum of the Foreign Office discloses, will be vitally affected by the changes proposed.

Finally this Government considers that the Declaration of London, as changed by the Order in Council, would result in such an interference with the customary rights of neutral commerce that the United States could not assent to it or submit to its enforcement, for the reason that to recognize it as a measure of the neutral rights of the United States would, in the opinion of this Government, be a manifest failure on its part to safeguard the interests of American citizens engaged in legitimate traffic with the subjects of belligerent and neutral nations.

In view of these considerations this Government is obliged to inform the Government of His Britannic Majesty that the United States would be unable to accept the Declaration as thus modified though all the belligerents should concur in the modifications suggested by Great Britain. The Government of the United States, therefore, reserves all the rights which it has under the Law of Nations in relation to any losses or damages which may occur by

reason of captures or condemnations made by the Government of Great Britain under the provisions of the Declaration of London as modified by the Order in Council of August 20, 1914.

You will inform His Majesty's Principal Secretary of State for Foreign Affairs of the contents of the foregoing instruction and, if he should so desire, leave a copy with him for his consideration.

You will not fail to impress upon His Excellency the gravity of the issues which the enforcement of the Order in Council seems to presage, and say to him in substance as follows:

It is a matter of grave concern to this Government that the particular conditions of this unfortunate war should be considered by His Britannic Majesty's Government to be such as to justify them in advancing doctrines and advocating practices which in the past aroused strong opposition on the part of the Government of the United States, and bitter feeling among the American people. This Government feels bound to express the fear, though it does so reluctantly, that the publicity, which must be given to the rules which His Majesty's Government announce that they intend to enforce, will awaken memories of controversies, which it is the earnest desire of the United States to forget or to pass over in silence. This Government in view of these considerations ventures to suggest in no unkindly spirit and with the sole purpose of preserving the mutual good will which now exists between the people of the United States and the people of Great Britain, that the British Government may find it possible to modify their intention **before it has been put into practice**, as its realization seems fraught with possible misunderstandings which the United States desires at all times to avoid, and especially at the present when the relations of the two countries are so cordial and when their friendship rests upon the secure foundation of the mutual esteem and common ideals of their respective peoples.

I am [etc.]

ROBERT LANSING

14

The Acting Secretary of State to the Ambassador in Great Britain
(Page)²⁰

[Telegram]

WASHINGTON, September 28, 1914—9 p.m.

218. You will immediately see Sir Edward Grey and state to him informally and confidentially that this Government is greatly disturbed by the intention of the British Government to change the provisions of the Declaration of London by the Order in Council of the 20th August and to adopt the Declaration thus changed as the

²⁰ File No. 763.72112/359a; For. Rel., 1914, supp., p. 232.

code of naval warfare for the present war. This Government feels grave concern at all of the proposed changes, especially those in articles 3 and 5 of the Order in Council, which so materially affect the rights of neutral commerce. If the proposed rules are sought to be put into force and the matter becomes the subject of public discussion in this country, as it undoubtedly will, it is to be confidently expected that it will arouse a spirit of resentment among the American people toward Great Britain which this Government would extremely regret but which it would be unable to prevent. You will also point out that the enforcement of these rules by the British Government would furnish to those inimical to Great Britain an opportunity which they would not be slow to seize, and which they are already using in our press upon the mere publication of the Order.

You will further say that the President earnestly desires to avoid a formal protest to the proposed rules and their enforcement and hopes that the British Government will be willing to consider the advisability of modifying these features of the Order in Council, which possesses such latent possibilities.

You will impress upon Sir Edward Grey the President's conviction of the extreme gravity of the situation and his earnest wish to avoid every cause of irritation and controversy between this Government and the Government of His Majesty.

In presenting the substance of this instruction to Sir Edward Grey you will assure him of the earnest spirit of friendship in which it is sent. The President is anxious that he should realize the terms of the Declaration of London represent the limit to which this Government could go with the approbation and support of its people.

Telegraph result of interview as soon as possible.²¹

LANSING

15

Memorandum by the Acting Secretary of State ²²

[WASHINGTON,] *September 29, 1914.*

In compliance with a telephonic request from the President I called last night at 9:30 on the British Ambassador after sending a

²¹ The Ambassador reported in a telegram no. 758, Sept. 29, 1914, 7 p.m.:

"I promptly took up your number 218, September 28 with Sir Edward Grey. He expresses the most earnest wish to avoid every action that will give offense to our Government or cause public criticism in the United States. . . .

He proposed a discussion of the whole matter with a view to arriving at a satisfactory understanding. This discussion begins tomorrow between him and its attorney general on one side and Anderson and me on our side." (File No. 763.72112/360; For. Rel., 1914, supp., p. 233.)

²² File No. 763.72112/12929; For. Rel. 1914, supp., p. 233.

telegraphic instruction to London directing the American Ambassador to take up informally and confidentially with Sir Edward Grey the subject of the Order in Council modifying the Declaration of London and its menace to the friendly feeling of the American people for Great Britain.

I asked the Ambassador if he had seen the editorial in the *Washington Post* of that morning relative to the Order in Council. He said that he had and that he appreciated the effect of such criticism on public opinion. I then told him of the instruction sent to London and asked him if he would not lend his aid to secure the cancellation or modification of the Order in Council, which I was sure would arouse a storm of protest when its provisions were understood and would be successfully used by the enemies of Great Britain in this country.

The Ambassador replied that he certainly would assist in any way that he could, that he fully appreciated the gravity of the situation, and that he had already telegraphed his Government several times in relation to the matter but would do so again immediately in view of the instruction sent to Ambassador Page.

A discussion of the provisions of the Order in Council followed in which, the Ambassador said that he agreed that the Order in Council practically made foodstuffs absolute contraband, which was contrary to the British traditional policy as well as to that of the United States. He said that the immediate cause had been the introduction through Rotterdam in first days of the war of large quantities of food supplies for the German army in Belgium, and that it seemed absolutely necessary to stop this traffic.

I replied that, while I appreciated that such reasons must weigh very heavily with those responsible for the successful conduct of the war, it seemed unfortunate that some other means could not have been found to accomplish the desired purpose, either by getting the Netherlands to place an embargo on foodstuffs and other conditional contraband or by agreeing not to re-export such articles. The Ambassador said that he agreed that would be much the better way, and that he believed it could be done.

He said that now the chief anxiety seemed to be in regard to shipments of copper and petroleum and also of Swedish iron, and that the British Government was stopping vessels with such cargoes and purchasing them. He suggested that possibly the difficulty created by the Order in Council could be removed by rescinding it and adding to the list of absolute contraband petroleum products, copper, barbed wire and other articles of like nature now used almost exclusively for war purposes.

I said that as to this suggestion I could not speak for the Government but that it seemed worthy of consideration as it might offer a

means of getting rid of the Order in Council which certainly menaced the very friendly relations existing if it became the subject of discussion by the press. I told him that I did not think that the feeling, which the Order in Council would arouse when generally understood, would be among the shippers as much as among the American public at large; and that, even if no case arose under it, the fact that the British Government had issued a decree, which menaced the commercial rights of the United States as a neutral, in violation of the generally accepted rules of international law, would undoubtedly cause irritation, if not indignation, and might change the sentiment of the American people, of which Great Britain had no reason to complain at the present time.

The Ambassador said that he realized that, and that he would do everything in his power to remove any cause of complaint against his Government for threatened interruption of our commerce with a neutral country, and he appreciated the consideration shown by the President in taking up the matter informally and not lodging a formal protest against the Order in Council. He felt that the Foreign Office must see how expedient it was to change its action, which was entirely contrary to the attitude previously held by the British Government, and had been so frankly stated by Lord Granville in 1885. He hoped that it would turn out in the way we both wanted.

ROBERT LANSING

16

*The Secretary of State to the Ambassador in Great Britain (Page)*²³

[Telegram]

WASHINGTON, *October 1, 1914—4 p.m.*

227. Your 758, September 29, 7 p.m.

The Department's instruction of September 26th,²⁴ *in re* the Declaration of London and Order in Council, which has been mailed to you, you will not present to Sir Edward Grey until you are specifically instructed to do so by telegraph. You should use the instruction, however, for your own information in the informal discussions in which you are engaged as it defines the position of this Government as to the acceptance of the Declaration of London as a code of naval warfare for this war and states the objections of this Government to the Order in Council and the reasons for this Government's refusal to agree to any material modification of the Declaration, of which reasons not the least is the view which the German and Austrian Governments would undoubtedly hold of

²³ File No. 763.72112/360; For. Rel. 1914, supp., p. 239.

²⁴ Document 13.

an acceptance of modifications of the Declaration which would be of special advantage to their enemies.

The press of this country are beginning to discuss the question and will undoubtedly do so more and more as complaints are being made of seizures of cargoes destined to Netherlands ports.

BRYAN

17

*The Acting Secretary of State to the British Ambassador
(Spring Rice)*²⁵

WASHINGTON, October 2, 1914.

MY DEAR MR. AMBASSADOR: The inquiry, made of the belligerents early in August in regard to the adoption of the Declaration of London, was in the hope that a code of naval warfare might be adopted by all the nations at war so that causes of controversy would be reduced as far as possible and neutrals, as well as belligerents, would not be in doubt as to the rules, which would be enforced during hostilities.

Germany and Austria agreed to the adoption of the Declaration conditioned upon adoption by their enemies. The Order in Council of August 20th prevented the object sought by our inquiry. As a result the declaration is non-effective as a naval code.

I have examined the Declaration and Order in Council in view of our recent conferences on the subject, and I wish to make the following suggestions which seem to me to be worthy of consideration.

Under Articles 23 and 25, if the London Declaration is adopted, a belligerent has the right to add to the lists of absolute and conditional contraband given in Articles 22 and 24. This right appears to be arbitrary except that notification must be given, and except that in the case of absolute contraband the added articles must be those "exclusively used for war." This latter phrase may be open to more than one interpretation, but it is manifest that "exclusively" can not be literally interpreted; for example, a literal interpretation would exclude dynamite sticks used in mining from being declared to be absolute contraband as they do not seem to fall under the term "explosives specially prepared for use in war" (Article 22, section 3). Manifestly such an exclusion was not intended. My personal view is that in interpreting "exclusively used in war" there must be taken into consideration the methods of warfare, the locality to which articles are presumably destined, and the situation which exists at the time of declaration and notification of the articles

²⁵ File No. 763.72112/12930a; For. Rel., 1914, supp., p. 240.

added to the absolute contraband list. This seems to me the common sense point of view of Article 23.

If my view is the correct one then Article 1 of the Order in Council is not a modification of the Declaration but merely an act performed under its provisions.

Now the point I am driving at is just this. Do not the powers conferred upon a belligerent by Articles 23 and 25 furnish sufficient means to protect the interests of your Government without modifying the Declaration at all? If I understand your main object it is that you are seeking to apply the doctrine of "continuous voyage" to certain articles now listed as conditional contraband, but which you consider munitions of war. If such articles can be treated as absolute contraband upon notice, what is the use of modifying the articles of the Declaration?

As to the other provisions of the Order in Council, namely Articles 2, 4 and 6, are they of sufficient importance to interfere with the great advantage to all parties, both belligerents and neutrals, to be gained by a unanimous agreement to abide by the rules of the Declaration during the continuance of hostilities?

If in place of the Order in Council of August 20th and those supplemental to it, the British Government would issue an Order in Council, and obtain from their allies similar decrees, accepting the Declaration of London without change, the German and Austrian Governments would be bound to do so. Then your Government could act under Articles 23 and 25, which do not require assent either by an enemy or a neutral.

I offer the foregoing suggestions in an entirely unofficial and personal way for your own consideration, and I will be glad to talk them over whenever you wish.

I am [etc.]

ROBERT LANSING

18

*Press Release Issued by the Department of State, October 3, 1914*²⁸

The Department has been advised by the British Government that, owing to the German policy of minelaying, certain areas have been defined by the British Government in which minefields have been established. In order to reduce risks to noncombatants, the British Admiralty announces that it is dangerous henceforward for ships to cross the area between Latitude fifty-one degrees fifteen minutes north and fifty-one degrees forty minutes north and Longitude one

²⁸ *Press Releases, Division of Current Information, 1912-1915.*

degree thirty-five minutes east and three degrees east.²⁷ Instructions have been issued to British ships to warn east going vessels of the presence of the new minefields.

19

The Acting Secretary of State to the Ambassador in Great Britain
(Page)²⁸

[Telegram]

WASHINGTON, October 4, 1914—5 p.m.

246. Ambassador Spring Rice telegraphed to Sir Edward Grey October 2nd in substance the result of a conversation between Ambassador and Counselor of State Department as follows: If Great Britain accepts Declaration without change and then adds under Articles 23 and 25 to the list of absolute and conditional contraband she would gain what appears to be her chief object while only using powers conferred in the Declaration. Words "exclusively used for war" in Article 23 cannot be literally interpreted, for example, case of dynamite sticks. In interpreting this expression consideration must be given to methods of warfare, the destination and conditions existing at time of additions to contraband lists. Do not powers under Articles 23 and 25 furnish sufficient means to protect British interests without modifying declaration at all? Articles 3 [2], 4 and 6 of Order in Council seem hardly important enough to justify sacrifice of principle of unanimous agreement, for if Great Britain and her allies accept Declaration Germany and Austria are bound to do same under their assurance of reciprocity. Presumably embargo on export of certain articles could be arranged with certain countries under threat of taking other measures on the principle that such

²⁷ The following message of Oct. 2 from the British Secretary of State for Foreign Affairs to the British Ambassador at Washington, was received by the Department of State on Oct. 3:

"The German policy of minelaying combined with their submarine activities makes it necessary on military grounds for Admiralty to adopt countermeasures. His Majesty's Government have therefore authorized a minelaying policy in certain areas and a system of minefields has been established and is being developed upon a considerable scale. In order to reduce risks to non-combatants the Admiralty announce that it is dangerous hence-forward for ships to cross area between Latitude 51° 15' N. and 51° 40' N. and Longitude 1° 35' E. and 3° E. In this connection it must be remembered that the southern limit of the German minefield is latitude 52° N. Although these limits are assigned to the danger area it must not be supposed that navigation is safe in any part of the southern waters of the North Sea. Instructions have been issued to His Majesty's ships to warn east going vessels of the presence of this new minefield. You should inform Government to which you are accredited without delay." (File No. 763.72/1104; For. Rel., 1914, supp., p. 460.)

²⁸ File No. 763.72112/361b; For. Rel., 1914, supp., p. 243.

countries could not allow their territory to become base for military operations. Little doubt that acceptance by Great Britain of Declaration without modification for this war would be solution of present difficulty and create widespread satisfaction. End of substance of conversation.

This Government would view with eminent satisfaction British acceptance of Declaration without change in order that for the present war uniform set of rules of naval warfare could be put in force defining relations between neutrals and belligerents. It would also quiet public unrest, which is increasing, as to present British action. After such unconditional acceptance modifications of lists of contraband under powers given by Articles 23 and 25 could be made, but as to the propriety of additions made by the British Government to lists of contraband, this Government must reserve opinion until duly notified of such additions.

LANSING

20

*Press Release Issued by the Department of State, October 15, 1914*²⁹

The Department of State has received numerous inquiries from American merchants and other persons as to whether they could sell to governments or nations at war contraband articles without violating the neutrality of the United States, and the Department has also received complaints that sales of contraband were being made on the apparent supposition that they were unneutral acts which this Government should prevent.

In view of the number of communications of this sort which have been received it is evident that there is a widespread misapprehension among the people of this country as to the obligations of the United States as a neutral nation in relation to trade in contraband and as to the powers of the Executive branch of the Government over persons who engage in it. For this reason it seems advisable to make an explanatory statement on the subject for the information of the public.

In the first place it should be understood that, generally speaking, a citizen of the United States can sell to a belligerent government or its agent any article of commerce which he pleases. He is not prohibited from doing this by any rule of international law, by any treaty provisions, or by any statute of the United States. It makes no difference whether the articles sold are exclusively for war purposes, such as firearms, explosives, etc., or are foodstuffs, clothing, horses, etc., for the use of the army or navy of the belligerent.

²⁹ File No. 763.72111/146½; For. Rel., 1914, supp., p. 573.

Furthermore, a neutral government is not compelled by international law, by treaty, or by statute to prevent these sales to a belligerent. Such sales, therefore, by American citizens do not in the least affect the neutrality of the United States.

It is true that such articles as those mentioned are considered contraband and are, outside the territorial jurisdiction of a neutral nation, subject to seizure by an enemy of the purchasing government, but it is the enemy's duty to prevent the articles reaching their destination, not the duty of the nation whose citizens have sold them. If the enemy of the purchasing nation happens for the time to be unable to do this that is for him one of the misfortunes of war; the inability, however, imposes on the neutral government no obligation to prevent the sale.

Neither the President nor any executive department of the government possesses the legal authority to interfere in any way with trade between the people of this country and the territory of a belligerent. There is no act of Congress conferring such authority or prohibiting traffic of this sort with European nations, although in the case of neighboring American Republics Congress has given the President power to proclaim an embargo on arms and ammunition when in his judgment it would tend to prevent civil strife.

For the Government of the United States itself to sell to a belligerent nation would be an unneutral act, but for a private individual to sell to a belligerent any product of the United States is neither unlawful nor unneutral, nor within the power of the Executive to prevent or control.

The foregoing remarks, however, do not apply to the outfitting or furnishing of vessels in American ports or of military expeditions on American soil in aid of a belligerent. These acts are prohibited by the neutrality laws of the United States.

21

*The Ambassador in Great Britain (Page) to the Secretary of State*³⁰

[Telegram]

LONDON, October 15, 1914—11 p.m.

[Received October 16—9.15 a.m.]

For the President:

Present controversy about shipping. I cannot help fearing we are getting into deep water needlessly. The British Government has yielded without question to all our requests and has shown a sincere desire to meet all our wishes short of admitting war materials into

³⁰ File No. 763.72112/164; For. Rel., 1914, supp., p. 248.

Germany. That it will not yield. We would not yield it if we were in their place. Neither would the Germans. The English will risk a serious quarrel or even war with us rather than yield. This you may regard as final.

Since the last lists of contraband and conditional contraband were made such articles as rubber and copper and petroleum have come to play an entirely new part in war. They simply will not admit them. Nothing that can be used for war purposes in Germany now will be used for anything else. Representatives of Spain, Holland and all the Scandinavian States have conferred with me. They agree they can do nothing but acquiesce and file protests and claims. They admit that England has the right to revise the list. This is not a war in the sense we have hitherto used the word. It is a world-clash of systems of government, a struggle to the extermination of English civilization or of Prussian military autocracy. Precedents have gone to the scrap heap. There is a new measure for military and diplomatic action. Suppose we press for a few shippers' theoretical rights. The American people as a whole gain nothing and the result is friction with Great Britain which is precisely what a very small minority of agitators would like. Great Britain can any day close the channel to all shipping or can drive Holland to the enemy and blockade her ports.

Look a little further ahead. If Germany win, it will make no matter what position Great Britain took on the Declaration of London. We shall see the Monroe Doctrine shot through. We shall have to have a great army and a great navy. If England win, and we have an ugly academic dispute with her because of this controversy, we shall be in a bad position for helping to compose the quarrel or for any other service.

The present controversy seems here, close to the struggle, academic and of the smallest practical consequence compared with the grave danger we incur of shutting ourselves off from a position to be of some service to civilization and to the peace of the world.

There is no practical need to consult other neutral governments. If we accept the proposed new order in council all the others will accept it and thank us after the event. Their representatives all come to me for advice and leadership here.

The question seems wholly different here from what it probably seems in Washington. There it is a more or less academic discussion. Here it is a matter of life and death for English speaking civilization. It is not a happy time to raise controversies that can be avoided or postponed. Nothing can be gained and every chance for useful cooperation for peace can easily be thrown away and is now in jeopardy. In jeopardy also are our friendly relations with

Great Britain in the sorest time of need in her history. I know that this is the correct, larger view. I recommend most earnestly the substantial acceptance of the new order in council or our acquiescence with a reservation of whatever rights we may have; and I recommend prompt information to the British Government of such action. I should like so to inform Grey.

So far as our neutrality obligations are concerned I do not believe that they require us to demand that Great Britain should adopt for our benefit the Declaration of London which has never been ratified by Great Britain or any other nation except the United States and the effect of which in its application to the situation presented by this war is altogether to the advantage of Germany.

I have delayed to send this perhaps too long for fear I might possibly seem influenced by sympathy with England and by the atmosphere here. But I write of course solely with reference to our own country's interest and its position after the reorganization of Europe. Anderson and Laughlin agree with me emphatically.

PAGE

22

The Acting Secretary of State to the Ambassador in Great Britain
(Page)³¹

[Telegram]

WASHINGTON, October 16, 1914—1 p.m.

323. This telegram will be followed by another in reply to your telegram Number 806, October 9th stating the objections of this Government to the proposed Order in Council, which the Department's unnumbered instruction of September 26th³² will make clear.

The desire of this Government is to obtain from the British Government the issuance of an Order in Council adopting the Declaration without any amendment whatsoever and to obtain from France and Russia like decrees, which they will undoubtedly issue if Great Britain sets the example. Such an adoption by the allied Governments will put in force the acceptance of the Declaration of London by Germany and Austria, which will thus become for all the belligerent powers the code of naval warfare during the present conflict. This is the aim of the United States.

It cannot be accomplished if the Declaration is changed in any way as Germany and Austria would not give their consent to a change.

In the frequent informal and confidential conversations which have taken place here and in the admirable frankness with which

³¹ File No. 763.72112/164; For. Rel., 1914, supp., p. 249.

³² Document 13.

Sir Edward Grey has stated the reasons for the action which Great Britain has deemed it necessary to take in regard to the Declaration, this Government feels that it fully understands and appreciates the British position, and is not disposed to place obstacles in the way of the accomplishment of the purposes which the British representatives have so frankly stated.

The confidence thus reposed in this Government makes it appreciate more than ever the staunch friendship of Great Britain for the United States, which it hopes always to deserve.

This Government would not feel warranted in offering any suggestion to the British Government as to a course which would meet the wishes of this Government and at the same time accomplish the ends which Great Britain seeks, but you might in the strictest confidence intimate to Sir Edward Grey the following plan, at the same time stating very explicitly that it is your personal suggestion and not one for which your Government is responsible.

Let the British Government issue an Order in Council accepting the Declaration of London without change or addition, and repealing all previous conflicting Orders in Council.

Let this Order in Council be followed by a Proclamation adding articles to the lists of absolute and conditional contraband by virtue of the authority conferred by Articles 23 and 25 of the Declaration.

Let the Proclamation be followed by another Order in Council, of which the United States need not be previously advised, declaring that, when one of His Majesty's Principal Secretaries of State is convinced that a port or the territory of a neutral country is being used as a base for the transit of supplies for an enemy government a Proclamation shall issue declaring that such port or territory has acquired enemy character insofar as trade in contraband is concerned and that vessels trading therewith shall be thereafter subject to the rules of the Declaration governing trade to enemy's territory.

It is true that the latter Order in Council would be based on a new principle. The excuse would be that the Declaration of London failing to provide for such an exceptional condition as exists a belligerent has a right to give a reasonable interpretation to the rules of the Declaration so that they will not leave him helpless to prevent an enemy from obtaining supplies for his military forces although the belligerent may possess the power and would have the right to do so if the port or territory was occupied by the enemy.

When the last mentioned Order in Council is issued, I am convinced that a full explanation of its nature and necessity would meet with liberal consideration by this Government and not be the subject of serious objection.

I repeat that any suggestion, which you may make to Sir Edward Grey, must be done in an entirely personal way and with the distinct understanding that this Government is in no way responsible for what you may say.

LANSING

23

The Acting Secretary of State to the Ambassador in Great Britain
(Page)⁸³

[Telegram]

WASHINGTON, October 16, 1914—3 p.m.

324. Your telegram No. 806, October 9th.

You may say to Sir Edward Grey that it is the earnest desire of this Government to reach an agreement as to the Declaration of London which will be mutually satisfactory, and that it is a matter of sincere gratification that the British Government have shown equal anxiety to meet the wishes of this Government in revising the Order in Council which seemed objectionable to this Government.

Nevertheless the United States is bound to recognize the rights of neutrals and to avoid accepting rules which it considers will place undue restrictions upon their exercise, not only because by accepting them undesirable precedents may be created for the future but also because acceptance by this Government might be construed by the enemies of Great Britain to be contrary to that strict neutrality which it is the earnest wish of the President to preserve throughout the present war.

It is, therefore, in no unfriendly spirit but in the hope and confident expectation that some more acceptable way may be found to accomplish the ends sought by the British Government that this Government offers the following objections to the Order in Council, which has been proposed as a substitute for the Order in Council of August 20th.

1st. The proposed Order in Council does not accept the Declaration of London without change, hence this Government is convinced that such modified acceptance would not be satisfactory to other belligerents, who have accepted the Declaration upon the condition that it is accepted by all the belligerent powers. As to the provisions of the proposed Order in Council this Government as a neutral and in the interest of neutral commerce is constrained to make the following objections. 2d. The proposed Order in Council leaves unrepealed Articles 2, 3, 4 and 6 of the Order in Council of August 20th. Of these Articles Numbers 3 and 6 [5?] are especially objec-

⁸³ File No. 763.72112/157; For. Rel., 1914, supp., p. 250.

tionable to this Government for reasons which have already been stated. 3d. The proposed Order in Council, while it purports to repeal Article 1 of the Order in Council of August 20th, in fact reenacts that Article and extends the lists of contraband set forth by many additions. These additions could have been made under Articles 23 and 25 of the Declaration if it had been adopted without change, hence it was needless to modify the Declaration itself. This same objection was made to Article 1 of the Order in Council of August 20th, and applies equally to its reenactment in an amended form. 4th. The substitution of Sub-Article B of Article 2 of Section 3 of the proposed Order in Council for Article 5 of the Order in Council of August 20th seems to be more restrictive of neutral rights than the repealed Article 5. Article 5 was intended to preserve the doctrine of "continuous voyage" in relation to conditional contraband. Although Sub-Article B purports to do away with this doctrine, it in fact appears to go even further than Article 5 in applying it. If "continuous voyage" is eliminated, no ship carrying articles listed as conditional contraband is liable to capture when its cargo is to be discharged in a neutral port even if the ultimate destination of the cargo is the enemy government. By Article 5 [3] of the Order in Council of August 20th, a ship destined to a neutral port is liable to seizure if the consignee of conditional contraband on board is not only an enemy government or its agent but even a person under its control. By Sub-Article B, in the proposed Order in Council a ship and cargo are liable to capture if the goods carried are in the list of conditional contraband, even though they are to be discharged at a neutral port, provided "no consignee in that country of the goods alleged to be conditional contraband is disclosed in the ships papers." In fact the terms of the Sub-Article permit capture of a ship bound for the port of one neutral country, if the cargo is consigned to a person resident in another country not at war. 5th. Section 4 of the proposed Order in Council introduces a new doctrine into naval warfare and imposes upon neutral commerce a restriction, which appears to be without precedent. An analysis of the provisions of this section shows that, in the discretion of one of His Majesty's Principal Secretaries of State, a neutral country may be clothed with enemy character and that the legitimate trade of another neutral with such country may be subjected to the rules which are applied to contraband trade with enemy territory. In brief this section appears to declare that articles, listed as conditional contraband, shipped in a neutral vessel to a neutral country makes the vessel and its cargo liable to seizure if certain members of the British Government are satisfied that supplies or munitions of war are entering enemy territory from the neutral country to which the vessel is bound even though the consignee is within the neutral country. The effect of

this provision would seem to be that a belligerent would gain all the rights over neutral commerce with enemy territory without declaring war against the neutral country which is claimed to be a base of supply for the military forces of an enemy. It seems inconsistent to declare a nation to be neutral and treat it as an enemy; and if it does so, other neutral nations can hardly be expected to permit their commerce to be subject to rules which only apply to commerce with a belligerent.

You may also say to Sir Edward Grey that the President is convinced that, if the same forbearance and cordiality continue, which each Government has shown up to this time in the discussion of this question, a solution will speedily be reached which will be acceptable to both.

LANSING

24

*The President to the Ambassador in Great Britain (Page)*³⁴

[Telegram]

WASHINGTON, October 16, 1914—6 p.m.

Yours October 15th, 11 p.m.^{34a}

Beg that you will not regard the position of this Government as merely academic. Contact with opinion on this side the water would materially alter your view. Lansing has pointed out to you in personal confidential despatch of this date how completely all the British Government seeks can be accomplished without the least friction with this Government and without touching opinion on this side the water on an exceedingly tender spot. I must urge you to realize this aspect of the matter and to use your utmost persuasive efforts to effect an understanding, which we earnestly desire, by the method we have gone out of our way to suggest, which will put the whole case in unimpeachable form.

This is private and for your guidance.

WOODROW WILSON

25

*The Ambassador in Great Britain (Page) to the Secretary of State*³⁵

[Telegram]

LONDON, October 19, 1914—12 midnight.

[Received October 20—8 a.m.]

864. Your 323, October 16. I followed your instructions literally. Sir Edward Grey will not accept Declaration of London without

³⁴ File No. 763.72112/164; For. Rel., 1914, supp., p. 252.

^{34a} Document 21.

³⁵ File No. 763.72112/189; For. Rel., 1914, supp., p. 253.

amendment: First for the same reason that [he] will not accept report of the drafting committee on Declaration, namely, Parliament declined to ratify it, and, second, because Declaration itself forbids the addition to contraband list of articles such as rubber and iron ore that are now necessary for manufacture of war materials. He could not accept the second proposed item in your telegram because to accept the Declaration entire and then to issue a proclamation contradicting a part of it would of course be impossible.

This finally ends all hope of his acceptance of Declaration entire. He is courteous, appreciative and willing to go any length he can to meet us. But he will not accept Declaration for reasons given.

I presented your objections to new order in council.

Up to this point the situation stood thus. He had declined to accept your proposal of Declaration of London entire and you had declined his request for your approval of the proposed new order in council. We stood then just where we stood before the controversy began, with all that had been proposed wiped off the slate.

Grey made a new start in the best spirit and temper. He said his aim was to meet our wishes and to derange and disturb neutral commerce the least possible in the necessary conduct of the war. He reminded me he has confiscated no American cargo. He made a new start by proposing the following: He will accept the Declaration with two amendments:

1st. the addition to the contraband and conditional contraband lists of the articles proposed in the draft of a new order in council previously telegraphed you to which you made no objection. These articles cannot be added if he accept Declaration in entirety. See section 28. Second amendment.

[2d.] He reserves right to stop cargoes of contraband or conditional contraband consigned in blank to a neutral country which are evidently destined for the enemy country. He expects to perfect arrangements with Scandinavian states and Holland to guarantee non-exportation of supplies of military material to enemy country.

He proposes to issue a proclamation to the foregoing effect repealing all preceding proclamations. He does not ask our acceptance of this proclamation but he hopes we will not protest against it, but that we will be content to declare that we reserve all rights under international law and usage if in its execution any harm be done to our commerce and that we will take up cases of damage if any occur as they arise. He reminded me that this would be the procedure under any arrangement that could be made and he expressed the conviction that no cases of actual damage would occur after the proclamation had gone into effect. Sir Edward has tele-

graphed this plan to Spring-Rice. Sir Edward hopes also that our explanation that we reserve all our rights in international law and usage will allay and prevent criticism of our Government at home. If we withhold our assent to the proclamation we will throw responsibility on the British Government.

AMERICAN AMBASSADOR

26

*The Acting Secretary of State to the Ambassador in Great Britain
(Page)*³⁶

[Telegram]

WASHINGTON, October 22, 1914—4 p.m.

373. Your number 864, October 19th, Declaration of London.

Inasmuch as the British Government consider that the conditions of the present European conflict make it impossible for them to accept without modification the Declaration of London you are requested to inform His Majesty's Government that in the circumstances the Government of the United States feels obliged to withdraw its suggestion that the Declaration of London be adopted as a temporary code of naval warfare to be observed by belligerents and neutrals during the present war; that therefore, this Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States irrespective of the provisions of the Declaration of London; and that this Government reserves to itself the right to enter a protest or demand in each case in which those rights and duties so defined are violated or their free exercise interfered with by the authorities of His Britannic Majesty's Government.³⁷

LANSING

³⁶ File No. 763.72112/189; For. Rel., 1914, supp., p. 257.

³⁷ On Oct. 24 the American diplomatic representatives in Austria-Hungary, France, Germany, Russia, and Belgium were instructed as follows:

"Please inform government to which you are accredited that Department's suggestion to belligerents as to adoption for sake of uniformity of Declaration as temporary code of naval warfare during present war, has been withdrawn on account of the unwillingness of some of the belligerents to accept the Declaration without modification, and that therefore this Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States, irrespective of the provisions of the Declaration, and that this Government reserves to itself the right to enter a protest or demand in each case in which those rights and duties so defined are violated, or their free exercise interfered with, by the authorities of the belligerent governments." File No. 763.72112/226a; For. Rel., 1914, supp., p. 259.

*Memorandum by the Counselor for the Department of State (Lansing) of a Conversation with the President, October 23, 1914, 8.30 p.m.*³⁸

WASHINGTON, October 23, 1914—9.30 p.m.

From my conversation with the President I gathered the following impressions as to his views concerning bank credits of belligerent governments in contradistinction to a public loan floated in this country.

There is a decided difference between an issue of government bonds, which are sold in open market to investors, and an arrangement for easy exchange in meeting debts incurred in trade between a government and American merchants.

The sale of bonds draws gold from the American people. The purchasers of bonds are loaning their savings to the belligerent government, and are, in fact, financing the war.

The acceptance of Treasury notes or other evidences of debt in payment for articles purchased in this country is merely a means of facilitating trade by a system of credits which will avoid the clumsy and impractical method of cash payments. As trade with belligerents is legitimate and proper it is desirable that obstacles, such as interference with an arrangement of credits or easy method of exchange, should be removed.

The question of an arrangement of this sort ought not to be submitted to this Government for its opinion, since it has given its views on loans in general, although an arrangement as to credits has to do with a commercial debt rather than with a loan of money.

The above are my individual impressions of the conversation with the President, who authorized me to give them to such persons as were entitled to hear them, upon the express understanding that they were my own impressions and that I had no authority to speak for the President or the Government.

ROBERT LANSING

Substance of above conveyed to Willard Straight at Metropolitan Club, 8:30 p.m. October 24, 1914. R. L.

Substance of above conveyed to R. L. Farnham at the Department, 10:30 a.m., October 26, 1914. R. L.

³⁸ File No. 763.72111/630½.

28

*The Acting Secretary of State to the Ambassador in Great Britain
(Page)* ³⁹

[Telegram]

WASHINGTON, October 24, 1914.

391. Cotton exportation. There is an increasing public irritation in this country over the fact that Great Britain has not made an affirmative statement to the effect that American owned cotton exported in vessels of neutral nationality, whatever the destination of the cotton, except to blockaded ports, will not be subject to seizure and detention. If British Government would immediately communicate to this Government such a declaration, it would relieve present tendency of public opinion which is imputing selfish motives to Great Britain on assumption that cotton shipments, at least those destined for belligerent countries, will be prevented by the British Government. Complaints are increasing on the part of Americans as to interference of Great Britain with commerce which they consider legitimate. Please bring foregoing at once to attention of British Government and ascertain if they would be willing to make such a positive declaration. This Government feels that it is essential that American public opinion on this matter be quieted and it feels confident that His Majesty's Government will cooperate with it to that end.⁴⁰

LANSING

29

*The Acting Secretary of State to the British Ambassador
(Spring Rice)* ⁴¹

WASHINGTON, October 29, 1914.

MY DEAR MR. AMBASSADOR: The positive declaration by your Government that they will not seize shipments of cotton as contraband has relieved the tension which has prevailed among the American planters and shippers due to a feeling of apprehension and uncertainty as to the British policy.

I desire now to call your attention to certain other commodities produced in our Southern States, as to which there appears to

³⁹ File No. 763.72112/370a; For. Rel., 1914, supp., p. 288.

⁴⁰ The Ambassador replied in part as follows on Oct. 26, 1914: "Your 391, October 24. Sir Edward Grey makes the positive declaration to me that cotton is not contraband and so far as the British Government is concerned will not be." (File No. 763.72112/226; For. Rel., 1914, supp., p. 289.)

⁴¹ File No. 763.72112/240; For. Rel., 1914, supp., p. 298.

be the same anxiety as there was in regard to cotton. These products are turpentine and rosin, which have the misleading trade term of "naval stores." It would be a great satisfaction if you could obtain from your Government as clear a statement of the immunity of these products from seizure as they were good enough to make in regard to cotton.

Neither in the lists of absolute or conditional contraband proclaimed by your Government or in the proposed lists, which have been communicated to this Department, do I find either turpentine or rosin.

I know that you appreciate the desirability of allaying the apprehension which prevails as to certain articles of trade which this country wishes to export to Europe and which seem to possess no qualities making them contraband. However groundless such apprehension may be it is well to quiet it by assurances which can leave no doubt of the intention of your Government.

If you can take this matter up with London, it will be a service to this Government in relieving a situation which is growing daily more embarrassing.⁴²

I am [etc.]

ROBERT LANSING

30

*The Acting Secretary of State to the Ambassador in Great Britain (Page)*⁴³

[Telegram]

WASHINGTON, October 31, 1914.

433. Department is informed that American steamer *Kroonland*, which sailed October 15 from New York for Naples and Piraeus with consignments of copper and rubber shipped by American citizens, has been detained at Gibraltar and is awaiting orders from England. It appears from representations submitted to Department by shippers, extensively supported by affidavits, that, in accordance with usual practice of trade, bills of lading were made to order of shippers; that the goods were not intended by the shippers for a belligerent government or its military or naval forces, and that there is not even evidence warranting the belief that they were destined ultimately for delivery in belligerent territory. Owners of cargoes

⁴² The British Ambassador replied in part as follows on Nov. 1, 1914: "Sir Edward Grey has now informed me in reply that in view of the representations which you have made he has pleasure in giving the official assurance that the British Government has not in fact any present intention of interfering with turpentine and rosin." (File No. 763.72112/282; For. Rel., 1914, supp., p. 299.)

⁴³ File No. 300.115/1032; For. Rel., 1914, supp., p. 333.

and vessel allege they are suffering large losses because of the detention of the vessel and they call attention to the hardships imposed on the passengers.

This Government does not question the right of British authorities properly to visit and search neutral merchant vessels for the purpose of ascertaining if they are carrying contraband or performing unneutral services to a belligerent, but if such search does not disclose any offense on the part of a vessel she should be promptly released. Department understands the *Kroonland* was not stopped on the high seas but is detained at Gibraltar. Such detention appears equivalent to a seizure, and the Department cannot perceive that the vessel can be properly held awaiting orders from the British authorities at London regardless of what an examination of available evidence on the ship may show relative to her destination and destination of her cargo.

The Department, therefore, considers that, unless investigation on the part of the British authorities has disclosed facts in relation to detention of vessel and cargo other than those that have been represented by owners, both ship and cargo should be released at once. If British authorities are not prepared to take such action, the Department feels warranted in requesting that this Government be furnished promptly with a statement of the grounds for detention of the ship.

This Government is also seriously concerned regarding the reported detention at Gibraltar of American shipments of copper on board the Italian steamers *San Giovanni* and *Regina d' Italia* which cargoes it is also represented to Department are not destined by the shippers for delivery in belligerent territory. The Department hopes they may be released at once. If this should not be done, this Government would also like to receive a statement from the British Government as soon as possible regarding the detention of the property.

The trade of this country has already suffered serious injury as a result of the detention and seizure by British authorities of American vessels and cargoes in cases where investigation has failed to show attempts to carry on illegal trade, and American shippers are bitterly complaining that their export trade is seriously menaced by unwarranted interference by British authorities with shipments to Europe.

Communicate with British Government in sense of the foregoing.

LANSING

31

The British Ambassador (Spring Rice) to the Secretary of State ⁴⁴

No. 375

WASHINGTON, November 3, 1914.

[Received November 4.]

SIR: In compliance with instructions received from Sir Edward Grey, His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to enclose herewith copy of a telegram which he has addressed to me recommending certain routes to be followed for ships wishing to trade to and from Norway, the Baltic, Denmark and Holland.

I have [etc.]

CECIL SPRING RICE

[Enclosure]

The British Secretary for Foreign Affairs (Grey) to the British Ambassador (Spring Rice)

[LONDON,] November 3, 1914.

Please inform Government to which you are accredited that the Admiralty are issuing the following announcement.

During the last week the Germans have scattered mines indiscriminately in the open sea on main trade route from America to Liverpool via North of Ireland. Peaceful merchant ships have already been blown up with loss of life by this agency. The White Star liner *Olympic* escaped disaster by pure good luck and but for warnings given by British cruisers other British and neutral merchant and passenger vessels would have been destroyed.

These mines cannot have been laid by any German ship of war. They have been laid by some merchant vessels flying neutral flag which have come along the trade route as if for purposes of peaceful commerce and while profiting to the full by immunity enjoyed by neutral merchant ships have wantonly and recklessly endangered the lives of all who travel on the sea regardless of whether they are friend or foe, civilian or military in character.

Minelaying under neutral flag and reconnaissance conducted by trawlers, hospital ships and neutral vessels are the ordinary features of German naval warfare.

In these circumstances having regard to the great interests entrusted to the British Navy, to the safety of peaceful commerce on high seas and to the maintenance within limits of international law of trade between neutral countries, the Admiralty feel it necessary

⁴⁴ File No. 763.72/1171; For. Rel., 1914, supp., p. 463.

to adopt exceptional measures appropriate to the novel conditions under which this war is being waged.

They therefore give notice that the whole of the North Sea must be considered a military area. Within this area merchant shipping of all kinds, traders of all countries, fishing craft and all other vessels will be exposed to the gravest dangers from mines which it has been necessary to lay and from warships searching vigilantly by night and day for suspicious craft.

All merchant and fishing vessels of every description are hereby warned of the dangers they encounter by entering this area except in strict accordance with Admiralty directions. Every effort will be made to convey this warning to neutral countries and to vessels on the sea, but from the 5th of November onwards the Admiralty announce that all ships passing a line drawn from the northern point of the Hebrides through Faroe Islands to Iceland do so at their own peril.

Ships of all countries wishing to trade to and from Norway, the Baltic, Denmark and Holland are advised to come, if inward bound, by the English Channel and Straits of Dover. There they will be given sailing directions which will pass them safely so far as Great Britain is concerned up the East Coast of England to Farne Island, whence safe route will, if possible, be given to Lindesnaes Lightship. From this point they should turn North or South according to their destination, keeping as near the coast as possible. Converse applies to vessels outward bound.

By strict adherence to these routes the commerce of all countries will be able to reach its destination in safety so far as Great Britain is concerned, but any straying even for a few miles from the course thus indicated may be followed by fatal consequences.

[No signature indicated]

32

The Ambassador in Great Britain (Page) to the Secretary of State ⁴⁵

No. 549

LONDON, November 3, 1914.

[Received November 16.]

SIR: I have the honor to transmit herewith a copy of a Proclamation containing a revised list of articles which the British Government have decided to declare absolute or conditional contraband respectively during the present war, as well as a copy of an Order in Council defining the attitude of His Majesty's Government towards the Declaration of London during the present hostilities and the

⁴⁵ File No. 763,72112/385; For. Rel., 1914, supp., p. 260.

rules which have been decided to be adopted in modification of the Declaration.

I have [etc.]

WALTER HINES PAGE

[Enclosure 1]

Proclamation Revising the List of Contraband of War

GEORGE R. I.

WHEREAS on the fourth day of August, 1914, We did issue Our Royal Proclamation specifying the articles which it was Our intention to treat as contraband of war during the war between Us and the German Emperor; and

WHEREAS on the twelfth day of August, 1914, We did by Our Royal Proclamation of that date extend Our Proclamation aforementioned to the war between Us and the Emperor of Austria, King of Hungary; and

WHEREAS on the twenty-first day of September, 1914, We did by Our Royal Proclamation of that date make certain additions to the list of articles to be treated as contraband of war; and

WHEREAS it is expedient to consolidate the said lists and to make certain additions thereto:

NOW, THEREFORE, We do hereby declare, by and with the advice of Our Privy Council, that the lists of contraband contained in the schedules of Our Royal Proclamations of the fourth day of August and the twenty-first day of September aforementioned are hereby withdrawn, and that in lieu thereof during the continuance of the war or until We do give further public notice the articles enumerated in Schedule I hereto will be treated as absolute contraband, and the articles enumerated in Schedule II hereto will be treated as conditional contraband.

SCHEDULE I

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
2. Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
3. Powder and explosives specially prepared for use in war.
4. Sulphuric acid.
5. Gun mountings, limber boxes, limbers, military waggons, field forges and their distinctive component parts.
6. Range-finders and their distinctive component parts.
7. Clothing and equipment of a distinctively military character.
8. Saddle, draught, and pack animals suitable for use in war.
9. All kinds of harness of a distinctively military character.
10. Articles of camp equipment and their distinctive component parts.

11. Armour plates.
12. Hæmatite iron ore and hæmatite pig iron.
13. Iron pyrites.
14. Nickel ore and nickel.
15. Ferrochrome and chrome ore.
16. Copper, unwrought.
17. Lead, pig, sheet, or pipe.
18. Aluminium.
19. Ferro-silica.
20. Barbed wire, and implements for fixing and cutting the same.
21. Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.
22. Aeroplanes, airships, balloons, and aircraft of all kinds, and their component parts, together with accessories and articles recognisable as intended for use in connection with balloons and aircraft.
23. Motor vehicles of all kinds and their component parts.
24. Motor tyres; rubber.
25. Mineral oils and motor spirit, except lubricating oils.
26. Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land and sea.

SCHEDULE II

1. Foodstuffs.
2. Forage and feeding stuffs for animals.
3. Clothing, fabrics for clothing, and boots and shoes suitable for use in war.
4. Gold and silver in coin or bullion; paper money.
5. Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
6. Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
7. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
8. Fuel, other than mineral oils. Lubricants.
9. Powder and explosives not specially prepared for use in war.
10. Sulphur.
11. Glycerine.
12. Horseshoes and shoeing materials.
13. Harness and saddlery.
14. Hides of all kinds, dry or wet; pigskins, raw or dressed; leather, undressed or dressed, suitable for saddlery, harness, or military boots.
15. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

Given at our Court at Buckingham Palace, this twenty-ninth day of October, in the year of our Lord one thousand nine hundred and fourteen, and in the fifth year of Our Reign, etc., etc.

[Enclosure 2]

Order in Council

At the Court at Buckingham Palace, the 29th day of October, 1914. Present, The King's Most Excellent Majesty in Council.

WHEREAS by an Order in Council dated the 20th day of August, 1914, His Majesty was pleased to declare that during the present hostilities the convention known as the Declaration of London should, subject to certain additions and modifications therein specified, be adopted and put in force by His Majesty's Government; and

WHEREAS the said additions and modifications were rendered necessary by the special conditions of the present war; and

WHEREAS it is desirable and possible now to re-enact the said Order in Council with amendments in order to minimise, so far as possible, the interference with innocent neutral trade occasioned by the war:

NOW, THEREFORE, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

1. During the present hostilities the provisions of the Convention known as the Declaration of London shall, subject to the exclusion of the lists of contraband and non-contraband, and to the modifications hereinafter set out, be adopted and put in force by His Majesty's Government.

The modifications are as follows:—

- (i.) A neutral vessel, with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.
- (ii.) The destination referred to in Article 33 of the said Declaration shall (in addition to the presumptions laid down in Article 34) be presumed to exist if the goods are consigned to or for an agent of the enemy State.
- (iii.) Notwithstanding the provisions of Article 35 of the said Declaration, conditional contraband shall be liable to capture on board a vessel bound for a neutral port if the goods are consigned "to order," or if the ship's papers do not show who is the consignee of the goods or if they show a consignee of the goods in territory belonging to or occupied by the enemy.
- (iv.) In the cases covered by the preceding paragraph (iii) it shall lie upon the owners of the goods to prove that their destination was innocent.

2. Where it is shown to the satisfaction of one of His Majesty's Principal Secretaries of State that the enemy Government is drawing supplies for its armed forces from or through a neutral country, he may direct that in respect of ships bound for a port in that country, Article 35 of the said Declaration shall not apply. Such direction shall be notified in the *London Gazette* and shall operate until the same is withdrawn. So long as such direction is in force, a vessel which is carrying conditional contraband to a port in that country shall not be immune from capture.

3. The Order in Council of the 20th August, 1914, directing the adoption and enforcement during the present hostilities of the Convention known as the Declaration of London, subject to the additions and modifications therein specified, is hereby repealed.

4. This Order may be cited as "the Declaration of London Order in Council, No. 2, 1914."

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other Judges of His Majesty's Prize Courts, and all Governors, Officers, and Authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain.

ALMERIC FITZROY

33

*The Acting Secretary of State to the British Ambassador
(Spring Rice)*⁴⁸

WASHINGTON, November 7, 1914.

EXCELLENCY: Referring to your informal communication of the 22nd ultimo stating that the *John D. Rockefeller* was detained among other reasons because an assurance was desired that the cargo would be discharged in Denmark and not exported from that country, the Department is also advised that the oil steamers *Platuria* and *Chr. Knudsen* have been detained pending the receipt of guarantees regarding the non-exportation of oil from Denmark.

It does not appear to this Government that the detention of vessels carrying cargoes for neutral destinations, until assurances have been obtained that the cargoes will not be exported from a neutral country after having arrived there, is legally justifiable. It is important, therefore, briefly to state the position of the United States in regard to such interference with American commerce, in

⁴⁸ File No. 341.115St2/54; For. Rel., 1914, supp., p. 339.

order that His Majesty's Government may not labor under the misapprehension that this Government admits the propriety of such action. Under the existing rules of international law and usage, a neutral owner of articles on a neutral vessel, bound to a neutral port, which articles under certain conditions might acquire the character of contraband, is not responsible for their future disposition by the Government of the neutral port of their destination, or by the persons to whom they are *bona fide* consigned in the ordinary course of trade. The treatment which such goods may receive after delivery to the consignees in a neutral country is a matter between the belligerent government investigating the shipment and the neutral government concerned, for which a *bona fide* shipper should not be made to suffer. In the opinion of this Government, the belligerent right of visit and search requires that the search should be made on the high seas at the time of the visit and that the conclusion of the search should rest upon the evidence found on the ship under investigation, and not upon circumstances ascertained from external sources. That evidence in the view of this Government should make out a *prima facie* case to justify the captor in taking the vessel into port. To take vessels into custody and send them into a port of the belligerent without *prima facie* evidence to impress the cargo with the character of absolute or conditional contraband, constitutes, in the opinion of the United States, a justifiable ground for complaint by a neutral government, and a basis for a legal claim for damages against the belligerent government which has detained the vessel for the purpose of inquiry through other channels as to the ultimate destination of the cargo, or as to the intended action of the government of the neutral country of destination.

The interruption in this manner and for such purposes of the voyage of the particular vessels mentioned or of any others similarly situated is this Government believes contrary to the principles of international law applicable to such cases, and the Government of the United States, therefore, reserves on behalf of its citizens interested in such vessels and cargoes the right to hold His Britannic Majesty's Government responsible in damages.

The United States Government feels obliged to request that the method of detention followed in these instances for the purpose of procuring guarantees or further evidence should be discontinued, and that the visit and search of vessels be made at sea with the greatest expedition possible under the circumstances.

I have [etc.]

ROBERT LANSING

34

*The Secretary of State to the Minister in Norway (Schmedeman)*⁴⁷

[Telegram]

WASHINGTON, November 10, 1914—6 p.m.

1. Your November 6, 11 A.M.⁴⁸ You may inform the Minister for Foreign Affairs that this Government does not see its way at the present time to joining other governments in protesting to the British Government against their announcement that ships entering the North Sea after November 5th⁴⁹ do so at their own peril.

BRYAN

35

*The Secretary of State to the Ambassador in Great Britain (Page)*⁵⁰

[Telegram]

WASHINGTON, November 10, 1914—11 p.m.

511. Your telegrams November 2 and 3. In connection with cases of detention of cargoes of copper on *Kroonland* and other vessels, bring following to attention of British Government and impress upon them the importance to American commerce of immediately releasing cargoes so detained. The Department desires to point out that copper was listed as conditional contraband up to October 29th, nearly two weeks after some of the vessels detained had sailed, and that British Government contend that the real destination of the cargoes is German territory generally. This Government cannot admit that such cargoes of copper are legally subject to seizure and confiscation in the absence of evidence showing them to be destined for the armed forces or government of a belligerent country.

Even if copper should be regarded as absolute contraband, the propriety of which is not admitted, Department is of the opinion that the evidence on board the vessels should make out a *prima facie* case showing that it is destined to German territory, and that the detention of vessels pending ascertainment of destination of cargoes from sources outside of ships papers is not justifiable under existing rules of international law.

⁴⁷ File No. 763.72/1177; For. Rel. 1914, supp., p. 466.

⁴⁸ Which reads: "Referring to my cable of Nov. 4, 5 P.M., the Minister for Foreign Affairs informed me Norwegian Govt. has sent a protest to the British Govt. against the closing of the North Sea. Denmark and Sweden will do same. Norway depends on the U.S. for large amount supplies. The Minister for Foreign Affairs expressed a hope that they will have the support of the U.S. and the U.S. Govt. will protest." (File No. 763.72/1177; For. Rel., 1914, supp., p. 465.)

⁴⁹ See document 31.

⁵⁰ File No. 300.115/1074; For. Rel., 1914, supp., p. 344.

If the copper is held on the ground that it was shipped under bills of lading drawn to order of shippers which is a usual practice of the trade, Department deems it necessary to state that it cannot acquiesce in the detention of copper on this ground as such practice would be in its opinion contrary to existing rules of international law. To hold that conditional contraband is subject to detention and prize proceedings when so consigned appears to destroy the distinction under international law between conditional and absolute contraband.

The Government of the United States is obliged to repeat its request that the cargoes of copper now detained on these grounds be released immediately and allowed to proceed to their destinations, and to reserve the right to hold the Government of His Britannic Majesty responsible for any damages which may result to American citizens from the interference of British authorities with such cargoes, and with American vessels carrying them.

BRYAN

36

*The Secretary of State to the Ambassador in Great Britain (Page)*⁵¹

[Telegram]

WASHINGTON, December 3, 1914.

680. *In re*: Seizure of steamships *Alfred Nobel*, *Björnson*, and *Fridland* and cargoes.

From reports from Consul General and information from shippers, Department concludes seizures and detention are not based on possession of facts tending to show cargoes were bound or destined to belligerents. Department therefore wishes to be advised at earliest moment if any ground of seizure asserted other than that shipments are to order, or consignee not shown, and, particularly, whether authorities have evidence *abundant* that any of shipments involved are as matter of fact bound or intended for belligerents and what particular shipments on any of said vessels are held as prize and sent to prize court.

The course of Great Britain in taking neutral vessels into British ports and detaining them for examination, including unloading of cargo in search of evidence of its contraband character constitutes wrongful and unjustifiable detention of vessels and cargo to which this Government explicitly objects and for which it denies there is any international right.

Department reiterates its position as stated in the case of the *Kroonland* respecting shipments to order and holds that shipments of consignments to neutral countries, though to shipper's order,

⁵¹ File No. 300.115/1586a; For, Rel., 1914, supp., p. 353.

being in usual course and in accordance with established custom of trade for protection of shipper against refusal of draft, cannot rightfully be seized as contraband in absence of facts tending to show that they are in fact destined for belligerents, and as to the legality of the action of Great Britain in seizing American shipments on neutral ships to neutral countries as in the above cases on ground merely that shipments are consigned to order, the Government of the United States enters an explicit denial.

Assuming, as seems to be the case, that cargoes of vessels named were seized and are detained under the provisions of the proclamation referred to, Department directs that you deliver a note to the British Foreign Office in the sense of the foregoing, and ask for the release of the American cargoes on the ships named.

Other vessels now *en route* to neutral countries of Europe carrying American cargoes presumably will meet with like action by Great Britain, whose course towards shipments from this country to the neutral countries of Europe has already provoked sharp criticism in this country, and if persisted in will assuredly produce conviction that Great Britain attempts to prevent trade between the United States and countries in Europe not involved in war. Action of Department in giving publicity to announcements by Great Britain, particularly as to the guarantees which it had received from Norway, Sweden and Denmark that reexportation of absolute and conditional contraband would be prohibited from their respective territories are counteracted by the action of Great Britain in continuing to seize cargoes destined to these neutral countries, and suggest that arrangements by Great Britain with neutral countries contiguous to countries at war are not intended to facilitate neutral commerce but to add further checks in British interest against all trade with enemies of Great Britain. This suggestion is strengthened by the statement of the Foreign Office, reported in your November 30, number 1163, respecting Italian decree. Consul General in possession of data which you may probably desire.

BRYAN

37

*The Ambassador in Great Britain (Page) to the Secretary of State*⁵²

[Telegram]

LONDON, December 6, 1914—7 p.m.

[Received December 7—8.30 a.m.]

1199. More than a fortnight ago I took up with Sir Edward Grey the possibility of making some comprehensive working arrangement

⁵² File No. 611.419/81; For. Rel., 1914, supp., p. 356.

whereby the two Governments might remove as many as possible of the trade and shipping difficulties that the war has developed. After discussion, he proposed that an effort to formulate such an arrangement be made by Anderson for us and for him by representatives of the several Departments of British Government that have to do with these questions. These gentlemen have had many conferences and Sir Edward and I have discussed it three times. Our conference yesterday [lasted] practically the whole afternoon.

I contended especially for the lifting of the embargo on the various products which we are prohibited from importing which it seems to me would be a concrete and substantial gain. In the proposed arrangement we have secured this contention except as to wool; and they promise to take up wool as soon as their own military demands are satisfied.

They contended that for a considerable number of concessions, some of which it would be difficult, if not impossible, to grant. We secured the elimination from the proposed arrangement of all the concessions they asked except our at least negative support of their demand that cargoes, especially of copper, shall be consigned to some definite consignee and not to the shipper nor to order. The practice of consigning to the shipper or to order is an innocent and convenient and valuable commercial practice in time of peace when no Government cares to whom any cargo belongs or whither it is bound, but they contend that in time of war this method is used to conceal real ownership and real destination of contraband goods. They ask that we refrain from supporting complaints of shippers about detention of cargoes based on this ground only. This leaves us all rights as now of making claims for wrongful detentions of these cargoes as well as of any others whatever. They claim to have definite proof that all copper in Germany or that is shipped into Germany is controlled by the Government for military use and my information is that no neutral Government [in] Europe disputes this. They cite the very high price of copper in Germany as confirming their contention. I hear from independent trade sources that the imports of copper into some of the countries contiguous to Germany has in the last four months been very far in excess of any previous annual importation. Great Britain will in any event continue to treat copper as absolute contraband. They claim also to have proof that many apparently neutral firms and companies in neutral [countries] contiguous to Germany are really Germany [*sic*] buying agents. They asserted that they have no wish to interfere with *bona fide* neutral trade and that they have taken and will take no action but what is necessary to prevent contraband trade under the guise of neutral. Every interference with what is proved to be real neutral trade they will take as now at the risk of damages.

The proposed working arrangement can be ended by either party at any time. The text of it which in this final form was prepared by them and accepted by Grey follows. Grey hopes it will be acceptable to you and the President.⁶³

"After conversations with Secretary of State for Foreign Affairs and with representatives of Departments of State concerned full assurances have been given that British Government is earnestly desirous of making arrangements calculated to diminish interference with *bona fide* trade between United States and *neutral* countries.

"It is not desired to press Government to make any declaration of policy with regard thereto; object is merely to secure the good offices of that Government in carrying out arrangements indicated in this statement and in insuring that exports from America are correctly and fully described on manifests and bills of lading.

"It is pointed out that since the outbreak of the war a change has been made in the practice whereby evidence of contents of manifests was available at ports of shipment in the United States. The consequence has been that information disclosed therein has been withheld with the unfortunate result that additional activity has had to be displayed in visiting, watching and detaining ships in order to discover the real nature of cargoes. It has also transpired that contraband goods have been shipped either with false and simulated descriptions or with no description whatever. This has been particularly the case with rubber and in addition there is evidence that facilities given for shipment of cotton without hindrance is inducing consignors to mix copper with cotton. It is the opinion here that such practices as these are dangerous and damaging to honest trading and are sure to restrict trade and create bad feeling. The British Government trust that they may have administrative assistance of the Government of the United States in putting a stop to such proceedings.

"In this connection it is clear greatest importance is attached to stopping copper from reaching enemy territory. Great Britain has no desire to come into any conflict with copper producers in America who desire to carry on a *bona fide* trade with neutral countries, but it is keenly felt that the United States Government ought to give its whole support to an endeavour to prevent fraudulent trade through American ports and should also refrain from supporting the complaints of traders based on the ground that there is no right to detain copper merely because it is destined for enemy territory.

"Some part of the difficulties surrounding the treatment of copper has now disappeared as there is evidence that the German Government has assumed control of all copper in or entering Germany and it is hoped that if copper is openly addressed to *bona fide* consignees in neutral countries that risk of such detention will be greatly minimised as negotiations are well advanced with most neutral countries contiguous to enemy states to ensure easy trade conditions in such countries subject to prohibition of export therefrom.

⁶³ The text of the draft arrangement which follows has been made to agree with another copy which was presented by the British Ambassador on Dec. 7, 1914 (File No. 763.72112/457).

"Should the United States Government find itself able to act on the lines herein described the British Government will be glad to negotiate for grant of permits for exportation from Great Britain and its colonies to the United States of rubber, hides, jute, plumbago, manganese, ferro manganese, chrome, tungsten ore, and other ingredients of steel on receiving assurances that these articles will not be re-exported from the United States in their waste, crude or raw form and that bloom or ingots of steel and manufactured rubber and leather articles (to be limited to a specific list) will not be exported to countries at war with Great Britain or to neutral European countries from which Great Britain has not secured satisfactory guarantees against re-exportation of such articles.⁵⁴ This limitation would not however interfere with exportation of any of these articles to Great Britain for distribution from there to neutral countries under the limitations imposed by British Law.

"Effect would be given to these proposals by granting licenses to the agents in Great Britain of American steel, rubber and leather trades; such licenses to contain stipulations and provide necessary securities. British Government has already been in communication with trade representatives and finds that such scheme is feasible and would be satisfactory to them.

"Remarks made at the beginning of this memorandum as to the good offices of the American government would apply equally to arrangements made in respect of all articles that become subject to license to export to America and which are not to be re-exported.

"As soon as the British Government hears that the arrangements herein proposed are acceptable to the United States Government British officials will be instructed to interview applicants for licenses and to grant permits without delay."^{54a}

AMERICAN AMBASSADOR

38

*The Secretary of State to Diplomatic and Consular Officers*⁵⁵

No. 366

General instruction

Consular

WASHINGTON, December 11, 1914.

RULES GOVERNING ACTIVITIES OF DIPLOMATIC AND CONSULAR OFFICERS IN EXTENSION OF AMERICAN EXPORT TRADE IN ARTICLES DECLARED TO BE CONTRABAND OR CONDITIONAL CONTRABAND

GENTLEMEN: In order that there may be uniformity of procedure on the part of all officers in the diplomatic and consular service in

⁵⁴ For correspondence regarding these articles, see For. Rel., 1915, supp., pp. 661-669.

^{54a} Although no record has been found of a formal acceptance of this arrangement, two announcements were later made in accordance with its provisions. See document 42.

⁵⁵ File No. 164./16a.

regard to rendering assistance to persons seeking to extend export trade in American products which have been declared by the nations now at war to be contraband the following rules are promulgated for your guidance:

1. Diplomatic and consular officers of the United States will not extend to American citizens or others any assistance which will tend to facilitate trade in articles which have been declared to be *contraband* by any or all of the nations at present in a state of war.

2. A different course is to be followed in regard to trade in articles declared by belligerent governments to be *conditional contraband*. Consular officers will render all proper assistance to American citizens seeking to enlarge their trade in articles which have been declared to be conditional contraband except where it appears in any case that the destination of the merchandise is such as to give it the character of contraband, in which event no assistance will be given.

The foregoing rules are to be observed until further orders in the treatment of all requests from individuals for information or assistance in the extension of American export trade.

I am [etc.]

W. J. BRYAN

39

The Secretary of State to the British Ambassador (Spring Rice) ⁵⁶

WASHINGTON, December 24, 1914.

EXCELLENCY: I have the honor to acknowledge receipt of your note of December 22, 1914, informing me that you are in receipt of a telegram from your Government to the effect that it has decided to add to the list of absolute contraband "resinous products, camphor, and turpentine (oil spirit)".

In reply I have the honor to say that this information is received with profound regret. It is not forgotten that on November 1st, I had the honor of receiving a note from you stating that Sir Edward Grey had advised you that rosin and turpentine were not on the British list of contraband and that the British Government had no intention of interfering with shipments of these articles. Acting upon the information contained in your said note, the Department advised many interested persons that they might safely ship both rosin and turpentine to any of the countries of Europe in neutral bottoms, and the announced position of your Government was given wide publicity. From information coming to the Department, it appears that rosin and turpentine have already been loaded in ships carrying cargoes of cotton for various countries of Europe, and

⁵⁶ File No. 763.72112/515; For. Rel., 1914, supp., p. 371.

that some of these ships have already sailed while others are sailing. This action of your Government will inevitably produce serious complications and confusion, and will be received by American interests involved with alarm.

In this relation, it seems an opportune time for me to say frankly to Your Excellency that the increasing restrictions imposed upon the commerce of neutral countries by the British Government, which restrictions are not deemed to be supported by principle and which result most injuriously to the legitimate trade of this country, produce an acute situation provoking the deep concern of the Department and of the American people. I reserve for future communication the objections which this Government may have to the action of the British Government in listing rosin and turpentine as contraband of war.

Neither is it forgotten that shipments of copper and other products from the United States to the neutral countries of Europe, made prior to the British proclamation and Order in Council of October 29th, have been seized by the British authorities and that apparently the provisions of the said Proclamation and Order in Council are attempted to be applied thereto. Should the same course unfortunately be taken by your Government with reference to shipments of rosin and turpentine, occurring before shippers shall have received notice of the recent action of your Government in placing those articles in the list of contraband, resulting in their detention or seizure, and that of other cargo shipped in the same vessels, this Government will doubtless be called upon to make urgent representation in behalf of the rights of its citizens thus imperilled.

I have [etc.]

W. J. BRYAN

40

*The Secretary of State to the Ambassador in Great Britain (Page)*⁵⁷

[Telegram]

WASHINGTON, December 26, 1914—4 p.m.

836. The present condition of American foreign trade resulting from the frequent seizures and detentions of American cargoes destined to neutral European ports has become so serious as to require a candid statement of the views of this Government in order that the British Government may be fully informed as to the attitude of the United States toward the policy which has been pursued by the British authorities during the present war.

⁵⁷ File No. 763.72112/545a; For. Rel., 1914, supp., p. 372.

A paraphrase of this instruction was sent on Dec. 30, 1914, to the British, French, and Russian Ambassadors, for which the exact text was substituted on the 31st.

You will, therefore, communicate the following to His Majesty's Principal Secretary of State for Foreign Affairs,⁵⁸ but in doing so you will assure him that it is done in the most friendly spirit and in the belief that frankness will better serve the continuance of cordial relations between the two countries than silence, which may be misconstrued into acquiescence in a course of conduct which this Government cannot but consider to be an infringement upon the rights of American citizens.

The Government of the United States has viewed with growing concern the large number of vessels laden with American goods destined to neutral ports in Europe, which have been seized on the high seas, taken into British ports and detained sometimes for weeks by the British authorities. During the early days of the war this Government assumed that the policy adopted by the British Government was due to the unexpected outbreak of hostilities and the necessity of immediate action to prevent contraband from reaching the enemy. For this reason it was not disposed to judge this policy harshly or protest it vigorously, although it was manifestly very injurious to American trade with the neutral countries of Europe. This Government, relying confidently upon the high regard which Great Britain has so often exhibited in the past for the rights of other nations, confidently awaited amendment of a course of action which denied to neutral commerce the freedom to which it was entitled by the law of nations.

This expectation seemed to be rendered the more assured by the statement of the Foreign Office early in November that the British Government were satisfied with guarantees offered by the Norwegian, Swedish and Danish Governments as to non-exportation of contraband goods when consigned to named persons in the territories of those Governments, and that orders had been given to the British fleet and customs authorities to restrict interference with neutral vessels carrying such cargoes so consigned to verification of ship's papers and cargoes.

It is, therefore, a matter of deep regret that, though nearly five months have passed since the war began, the British Government have not materially changed their policy and do not treat less rigorously ships and cargoes passing between neutral ports in the peaceful pursuit of lawful commerce, which belligerents should protect rather than interrupt. The greater freedom from detention and seizure which was confidently expected to result from consigning shipments to definite consignees, rather than "to order," is still awaited.

It is needless to point out to His Majesty's Government, usually the champion of the freedom of the seas and the rights of trade, that peace, not war, is the normal relation between nations and that the commerce between countries which are not belligerents should not be interfered with by those at war unless such interference is manifestly an imperative necessity to protect their national safety, and then only to the extent that it is a necessity. It is with no lack

⁵⁸ Presented Dec. 28, 1914.

of appreciation of the momentous nature of the present struggle, in which Great Britain is engaged, and with no selfish desire to gain undue commercial advantage that this Government is reluctantly forced to the conclusion that the present policy of His Majesty's Government toward neutral ships and cargoes exceeds the manifest necessity of a belligerent and constitutes restrictions upon the rights of American citizens on the high seas which are not justified by the rules of international law or required under the principle of self-preservation.

The Government of the United States does not intend at this time to discuss the propriety of including certain articles in the lists of absolute and conditional contraband, which have been proclaimed by His Majesty. Open to objection as some of these seem to this Government, the chief ground of present complaint is the treatment of cargoes of both classes of articles when bound to neutral ports.

Articles listed as absolute contraband, shipped from the United States and consigned to neutral countries, have been seized and detained on the ground that the countries to which they were destined have not prohibited the exportation of such articles. Unwarranted as such detentions are, in the opinion of this Government, American exporters are further perplexed by the apparent indecision of the British authorities in applying their own rules to neutral cargoes. For example, a shipment of copper from this country to a specified consignee in Sweden was detained because, as was stated by Great Britain, Sweden had placed no embargo on copper. On the other hand, Italy not only prohibited the export of copper, but, as this Government is informed, put in force a decree that shipments to Italian consignees or "to order," which arrive in ports of Italy cannot be exported or transhipped. The only exception Italy makes is of copper which passes through that country in transit to another country. In spite of these decrees, however, the British Foreign Office has thus far declined to affirm that copper shipments consigned to Italy will not be molested on the high seas. Seizures are so numerous and delays so prolonged that exporters are afraid to send their copper to Italy, steamship lines decline to accept it, and insurers refuse to issue policies upon it. In a word, a legitimate trade is being greatly impaired through uncertainty as to the treatment which it may expect at the hands of the British authorities.

We feel that we are abundantly justified in asking for information as to the manner in which the British Government propose to carry out the policy which they have adopted, in order that we may determine the steps necessary to protect our citizens, engaged in foreign trade, in their rights and from the serious losses to which they are liable through ignorance of the hazards to which their cargoes are exposed.

In the case of conditional contraband the policy of Great Britain appears to this Government to be equally unjustified by the established rules of international conduct. As evidence of this, attention is directed to the fact that a number of the American cargoes which have been seized consist of foodstuffs and other articles of common use in all countries which are admittedly relative contraband. In spite of the presumption of innocent use because destined to neutral territory, the British authorities made these seizures and detentions

without, so far as we are informed, being in possession of facts which warranted a reasonable belief that the shipments had in reality a belligerent destination, as that term is used in international law. Mere suspicion is not evidence and doubts should be resolved in favor of neutral commerce, not against it. The effect upon trade in these articles between neutral nations resulting from interrupted voyages and detained cargoes is not entirely cured by reimbursement of the owners for the damages, which they have suffered, after investigation has failed to establish an enemy destination. The injury is to American commerce with neutral countries as a whole through the hazard of the enterprise and the repeated diversion of goods from established markets.

It also appears that cargoes of this character have been seized by the British authorities because of a belief that, though not originally so intended by the shippers, they will ultimately reach the territory of the enemies of Great Britain. Yet this belief is frequently reduced to a mere fear in view of the embargoes which have been decreed by the neutral countries, to which they are destined, on the articles composing the cargoes.

That a consignment "to order" of articles listed as conditional contraband and shipped to a neutral port raises a legal presumption of enemy destination appears to be directly contrary to the doctrine previously held by Great Britain and thus stated by Lord Salisbury during the South African War:

"Foodstuffs, though having a hostile destination, can be considered as contraband of war only if they are for the enemy forces; it is not sufficient that they are capable of being so used, it must be shown that this was in fact their destination at the time of their seizure."

With this statement as to conditional contraband the views of this Government are in entire accord, and upon this historic doctrine, consistently maintained by Great Britain when a belligerent as well as a neutral, American shippers were entitled to rely.

The Government of the United States readily admits the full right of a belligerent to visit and search on the high seas the vessels of American citizens or other neutral vessels carrying American goods and to detain them *when there is sufficient evidence to justify a belief that contraband articles are in their cargoes*; but His Majesty's Government, judging by their own experience in the past, must realize that this Government cannot without protest permit American ships or American cargoes to be taken into British ports and there detained for the purpose of searching generally for evidence of contraband, or upon presumptions created by special municipal enactments which are clearly at variance with international law and practice.

This Government believes, and earnestly hopes His Majesty's Government will come to the same belief, that a course of conduct more in conformity with the rules of international usage, which Great Britain has strongly sanctioned for many years, will in the end better serve the interests of belligerents as well as those of neutrals.

Not only is the situation a critical one to the commercial interests of the United States, but many of the great industries of this country are suffering because their products are denied long-established markets in European countries, which though neutral, are contigu-

ous to the nations at war. Producers and exporters, steamship and insurance companies are pressing, and not without reason, for relief from the menace to transatlantic trade which is gradually but surely destroying their business and threatening them with financial disaster.

The Government of the United States, still relying upon the deep sense of justice of the British nation, which has been so often manifested in the intercourse between the two countries during so many years of uninterrupted friendship, expresses confidently the hope that His Majesty's Government will realize the obstacles and difficulties which their present policy has placed in the way of commerce between the United States and the neutral countries of Europe, and will instruct its officials to refrain from all unnecessary interference with the freedom of trade between nations which are sufferers, though not participants, in the present conflict; and will in their treatment of neutral ships and cargoes conform more closely to those rules governing the maritime relations between belligerents and neutrals, which have received the sanction of the civilized world, and which Great Britain has, in other wars, so strongly and successfully advocated.

In conclusion it should be impressed upon His Majesty's Government that the present condition of American trade with the neutral European countries is such that, if it does not improve, it may arouse a feeling contrary to that which has so long existed between the American and British peoples. Already it is becoming more and more the subject of public criticism and complaint. There is an increasing belief, doubtless not entirely unjustified, that the present British policy toward American trade is responsible for the depression in certain industries which depend upon European markets. The attention of the British Government is called to this possible result of their present policy to show how widespread the effect is upon the industrial life of the United States and to emphasize the importance of removing the cause of complaint.

BRYAN

41

The Department of State to the German Embassy ⁵⁹

Receipt is acknowledged of the memorandum of the Imperial German Embassy of December 10, 1914, inquiring whether the United States Government is willing to prevent the British Government from seizing shipments of relative contraband, especially food-stuffs, from this country to Germany.

Soon after the outbreak of the present war, the Department suggested to the several belligerents the propriety of their adhering to the announcements of the so-called London Convention as a working

⁵⁹ File No. 763.72112/468; For Rel., 1914, supp., p. 376.

basis for the settlement of the rights of neutrals and belligerents in the several respects covered by that Convention; but, not being able to obtain from the belligerents an acceptance of the announcements of the Convention without conditions or modifications, the Department was impelled to withdraw its suggestion and to give notice to belligerents of its intention to abide by the rules of international law and international usage for the determination of the rights of its citizens as affected by the war.

The right of the citizens or subjects of a neutral country to trade with those of belligerents in all cases of non-contraband goods is plain as is also their right to trade with the subjects of belligerents in goods which are relative contraband, except where such goods are bound or destined for belligerent governments or as supplies for their armed forces.

It is not possible, in advance of the facts in particular cases in which its action may be invoked, for the Department to determine what action would be appropriate, or what course the Department would pursue. However, the German Embassy is assured that it is the purpose of this Government to extend all appropriate assistance to its citizens whose goods may be seized or detained by any of the belligerents in violation of the rules of international law as those rules have received generally accepted interpretation, and that this policy will be pursued with strict impartiality as to all belligerents.

The Department regrets that it has found it necessary to interpose objection to the acts and practices of belligerents in certain instances, which the Department could but regard as failing in recognition of the rights of neutrals.

WASHINGTON, *December 28, 1914.*

42

*The Secretary of State to the Ambassador in Great Britain (Page)*⁶⁰

[Telegram]

WASHINGTON, *January 4, 1915.*

877. Following notice to exporters will be issued by Treasury Department tomorrow:

“The attention of exporters is respectfully called to the importance of having foreign shipping manifests complete and accurate, in order to avoid delay incident to search while in transit.

Cases have occurred where manifests have been incomplete or inaccurate, and where it is claimed, efforts have been made to conceal the nature of the goods carried. Even a few cases of this kind may throw suspicion upon other American commerce, and, through

⁶⁰ File No. 763.72112/690a; For. Rel., 1915, supp., p. 297.

delay, work injury to our foreign trade. While a ship owner who knowingly becomes a party to such a transaction may be liable to such of his patrons as may unjustly suffer thereby, still this is not a sufficient protection since it does not safeguard other shippers who suffer inconvenience because of occasional derelictions of those who inaccurately describe or conceal the character of their shipments.

The Government is making every practicable effort to secure the uninterrupted flow of American commerce and to reduce to a minimum such delays as may be unavoidable in time of war. It looks with confidence for cooperation from the American business public to prevent such action on the part of shippers as adds unnecessarily to the difficulties of business at this time.

Whenever shippers desire such aid in carrying on their foreign business the Treasury Department will furnish, upon application to the Customs Collector at any port, an officer to supervise the loading of cargo and to certify to the completeness and accuracy of the manifest.

As a further precaution it is suggested that shippers accompany ship's manifest with an affidavit stating that the articles shipped are correctly shown by the manifest, and that the packages contain nothing except that which is shown thereon.⁶¹

Andrew J. Peters

Acting Secretary of the Treasury

Approved:

W. J. Bryan

Secretary of State.

William C Redfield

Secretary of Commerce."

BRYAN

43

*The Secretary of State to the Ambassador in Great Britain (Page)*⁶²

[Telegram]

WASHINGTON, *January 12, 1915—7 p.m.*

939. Your number 1434 January 7th, 8 P.M. Please prepare a note to Sir Edward Grey in reply to his note of January 7th in the sense of the following:

We appreciate the friendly spirit in which the American note of December 28th was received by the British Government and we have no doubt that the cordial relations between the two governments will continue throughout the pending diplomatic discussion. The Government of the United States notes with satisfaction that His Maj-

⁶¹ On Feb. 16, 1915, the Secretary of State cabled the Ambassador in Great Britain: "Order prohibiting publication ship manifests until after thirty days has been rescinded." (File No. 763.72112/699; For. Rel., 1915, supp., p. 334.)

⁶² File No. 763.72112/594; For. Rel., 1915, supp., p. 305.

esty's Government agree with the principles of international law as set forth in the American note.⁶³ As this note is being carefully examined by the British Government with a view to making a further reply in detail it would seem premature for me to answer at the present time the remarks of Sir Edward Grey. It is the intention of this Government to consider the points raised by Sir Edward Grey in connection with the further reply of the British Government promised by him.⁶⁴

BRYAN

44

*The Secretary of State to the Chairman of the Senate Committee on Foreign Relations (Stone)*⁶⁵

WASHINGTON, January 20, 1915.

DEAR MR. STONE: I have received your letter of the 8th instant, referring to frequent complaints or charges made in one form or another through the press that this Government has shown partiality to Great Britain, France and Russia against Germany and Austria during the present war, and stating that you have received numerous letters to the same effect from sympathizers with the latter powers. You summarize the various grounds of these complaints and ask that you be furnished with whatever information the Department may have touching these points of complaint, in order that you may be informed as to what the true situation is in regard to these matters.

In order that you may have such information as the Department has on the subjects referred to in your letter, I will take them up *seriatim*.

⁶³ The last paragraph of the British note reads:

"Pending a more detailed reply, I would conclude by saying that His Majesty's Government do not desire to contest the general principles of law, on which they understand the Note of the United States to be based, and desire to restrict their action solely to interference with contraband destined for the enemy. His Majesty's Government are prepared, whenever a cargo coming from the United States is detained, to explain the case on which such detention has taken place, and would gladly enter into any arrangement by which mistakes can be avoided and reparation secured promptly when any injury to the neutral owners of a ship or cargo has been improperly caused, for they are most desirous in the interest both of the United States and of other neutral countries that British action should not interfere with the normal importation and use by the neutral countries of goods from the United States." (File No. 763.7112/589; For. Rel., 1915, supp., p. 299.)

⁶⁴ The further reply of the British Government, dated Feb. 10, 1915 (File No. 763.72112/716; For. Rel., 1915, supp., p. 324), was not answered by the United States.

⁶⁵ File No. 763.72111/1435; For. Rel., 1914, supp., p. vii.

(1) *Freedom of communication by submarine cables versus censored communication by wireless.*

The reason that wireless messages and cable messages require different treatment by a neutral government is as follows:

Communications by wireless cannot be interrupted by a belligerent. With a submarine cable it is otherwise. The possibility of cutting the cable exists, and if a belligerent possesses naval superiority, the cable is cut, as was the German cable near the Azores by one of Germany's enemies, and as was the British cable near Fanning Island by a German naval force. Since a cable is subject to hostile attack, the responsibility falls upon the belligerent and not upon the neutral to prevent cable communication.

A more important reason however, at least from the point of view of a neutral government, is that messages sent out from a wireless station in neutral territory may be received by belligerent warships on the high seas. If these messages, whether plain or in cipher, direct the movements of warships or convey to them information as to the location of an enemy's public or private vessels, the neutral territory becomes a base of naval operations, to permit which would be essentially unneutral.

As a wireless message can be received by all stations and vessels within a given radius, every message in cipher, whatever its intended destination, must be censored, otherwise military information may be sent to warships off the coast of a neutral. It is manifest that a submarine cable is incapable of becoming a means of direct communication with a warship on the high seas; hence its use cannot as a rule make neutral territory a base for the direction of naval operations.

(2) *Censorship of mails and in some cases repeated destruction of American letters on neutral vessels.*

As to the censorship of mails, Germany as well as Great Britain has pursued this course in regard to private letters falling into their hands. The unquestioned right to adopt a measure of this sort makes objection to it inadvisable.

It has been asserted that American mail on board of Dutch steamers has been repeatedly destroyed. No evidence to this effect has been filed with the Government, and therefore no representations have been made. Until such a case is presented in concrete form, this Government would not be justified in presenting the matter to the offending belligerent. Complaints have come to the Department that mail on board neutral steamers has been opened and detained but there seem to be but few cases where the mail from neutral countries has not been finally delivered. When mail is sent

to belligerent countries open and is of a neutral and private character it has not been molested, so far as the Department is advised.

(3) *Searching of American vessels for German and Austrian subjects on the high seas and in territorial waters of a belligerent.*

So far as this Government has been informed, no American vessels on the high seas, with two exceptions, have been detained or searched by belligerent warships for German and Austrian subjects. One of the exceptions to which reference is made is now the subject of a rigid investigation, and vigorous representations have been made to the offending government. The other exception, where certain German passengers were made to sign a promise not to take part in the war, has been brought to the attention of the offending government with a declaration that such procedure, if true, is an unwarranted exercise of jurisdiction over American vessels in which this Government will not acquiesce.

An American private vessel entering voluntarily the territorial waters of a belligerent becomes subject to its municipal laws, as do the persons on board the vessel.

There have appeared in certain publications the assertion that failure to protest in these cases is an abandonment of the principle for which the United States went to war in 1812. If the failure to protest were true, which it is not, the principle involved is entirely different from the one appealed to against unjustifiable impressment of Americans in the British navy in time of peace.

(4) *Submission without protest to British violations of the rules regarding absolute and conditional contraband as laid down in the Hague Conventions, the Declaration of London and international law.*

There is no Hague Convention which deals with absolute or conditional contraband, and, as the Declaration of London is not in force, the rules of international law only apply. As to the articles to be regarded as contraband there is no general agreement between nations. It is the practice for a century [*country*], either in time of peace or after the outbreak of war, to declare the articles which it will consider as absolute or conditional contraband. It is true that a neutral government is seriously affected by this declaration, as the rights of its subjects or citizens may be impaired. But the rights and interests of belligerents and neutrals are opposed in respect to contraband articles and trade and there is no tribunal to which questions of difference may be readily submitted.

The record of the United States in the past is not free from criticism. When neutral this Government has stood for a restricted list of absolute and conditional contraband. As a belligerent, we have

contended for a liberal list according to our conception of the necessities of the case.

The United States has made earnest representations to Great Britain in regard to the seizure and detention by the British authorities of all American ships or cargoes *bona fide* destined to neutral ports, on the ground that such seizures and detentions were contrary to the existing rules of international law. It will be recalled, however, that American courts have established various rules bearing on these matters. The rule of "continuous voyage" has been not only asserted by American tribunals but extended by them. They have exercised the right to determine from the circumstances whether the ostensible was the real destination. They have held that the shipment of articles of contraband to a neutral port "to order," from which, as a matter of fact, cargoes have been transshipped to the enemy, is corroborative evidence that the cargo is really destined to the enemy, instead of to the neutral port of delivery. It is thus seen that some of the doctrines which appear to bear harshly upon neutrals at the present time are analogous to or outgrowths from policies adopted by the United States when it was a belligerent. The Government therefore cannot consistently protest against the application of rules which it has followed in the past, unless they have not been practiced as heretofore.

(5) *Acquiescence without protest to the inclusion of copper and other articles in the British lists of absolute contraband.*

The United States has now under consideration the question of the right of a belligerent to include "copper unwrought" in its list of absolute contraband instead of in its list of conditional contraband. As the Government of the United States has in the past placed "all articles from which ammunition is manufactured"⁶⁶ in its contraband list, and has declared copper to be among such materials,⁶⁷ it necessarily finds some embarrassment in dealing with the subject.

Moreover, there is no instance of the United States acquiescing in Great Britain's seizure of copper shipments. In every case, in which it has been done, vigorous representations have been made to the British Government, and the representatives of the United States have pressed for the release of the shipments.

⁶⁶ President Johnson's proclamation of June 13, 1865, listed the following articles as contraband of war: Arms, ammunition, all articles from which ammunition is made, and gray uniforms and cloth (vol. I, p. 453).

⁶⁷ On Mar. 19, 1901, Secretary of State Hay instructed Commissioner Rockhill in China: "War Department reports materials principally employed manufacturing arms and ammunition as follows: Steel tubes and hoops, forged and oil tempered, Copper, brass, tin, lead, nitre, sulphur, charcoal, guncotton, nitroglycerine, alcohol, nitric acid, sulphuric acid, raw cotton, Picric acid, mercuric fulminate. None of these is exclusively so used. . . ." (Instructions, China, vol. VI, p. 180).

(6) *Submission without protest to interference with American trade to neutral countries in conditional and absolute contraband.*

The fact that the commerce of the United States is interrupted by Great Britain is consequent upon the superiority of her navy on the high seas. History shows that whenever a country has possessed that superiority, our trade has been interrupted and that few articles essential to the prosecution of the war have been allowed to reach its enemy from this country. The Department's recent note to the British Government, which has been made public, in regard to detentions and seizures of American vessels and cargoes, is a complete answer to this complaint.

Certain other complaints appear aimed at the loss of profit in trade, which must include at least in part trade in contraband with Germany; while other complaints demand the prohibition of trade in contraband, which appears to refer to trade with the Allies.

(7) *Submission without protest to interruption of trade in conditional contraband consigned to private persons in Germany and Austria, thereby supporting the policy of Great Britain to cut off all supplies from Germany and Austria.*

As no American vessel so far as known has attempted to carry conditional contraband to Germany or Austria-Hungary no ground of complaint has arisen out of the seizure or condemnation by Great Britain of an American vessel with a belligerent destination. Until a case arises and the Government has taken action upon it, criticism is premature and unwarranted. The United States in its note of December 28th⁶⁸ to the British Government strongly contended for the principle of freedom of trade in articles of conditional contraband not destined to the belligerent's forces.

(8) *Submission to British interference with trade in petroleum, rubber, leather, wool, etc.*

Petrol and other petroleum products have been proclaimed by Great Britain as contraband of war. In view of the absolute necessity of such products to the use of submarines, aeroplanes and motors, the United States Government has not yet reached the conclusion that they are improperly included in a list of contraband. Military operations today are largely a question of motive power through mechanical devices. It is therefore difficult to argue successfully against the inclusion of petroleum among the articles of contraband. As to the detention of cargoes of petroleum going to neutral countries, this

⁶⁸ See document 40.

Government has, thus far successfully, obtained the release in every case of detention or seizure which has been brought to its attention.

Great Britain and France have placed rubber on the absolute contraband list and leather on the conditional contraband list. Rubber is extensively used in the manufacture and operation of motors and like petrol is regarded by some authorities as essential to motive power to-day. Leather is even more widely used in cavalry and infantry equipment. It is understood that both rubber and leather together with wool have been embargoed by most of the belligerent countries. It will be recalled that the United States has in the past exercised the right of embargo upon exports of any commodity which might aid the enemy's cause.

(9) The United States has not interfered with the sale to Great Britain and her Allies of arms, ammunition, horses, uniforms, and other munitions of war, although such sales prolong the conflict.

There is no power in the Executive to prevent the sale of ammunition to the belligerents.

The duty of a neutral to restrict trade in munitions of war has never been imposed by international law or by municipal statute. It has never been the policy of this Government to prevent the shipment of arms or ammunition into belligerent territory, except in the case of neighboring American republics, and then only when civil strife prevailed. Even to this extent the belligerents in the present conflict, when they were neutrals, have never, so far as the records disclose, limited the sale of munitions of war. It is only necessary to point to the enormous quantities of arms and ammunition furnished by manufacturers in Germany to the belligerents in the Russo-Japanese war and in the recent Balkan wars to establish the general recognition of the propriety of the trade by a neutral nation.

It may be added that on the 15th of December last, the German Ambassador, by direction of his Government, presented a copy of a memorandum of the Imperial German Government which, among other things, set forth the attitude of that Government toward traffic in contraband of war by citizens of neutral countries. The Imperial Government stated that "under the general principles of international law, no exception can be taken to neutral States letting war material go to Germany's enemies from or through neutral territory", and that the adversaries of Germany in the present war are, in the opinion of the Imperial Government, authorized to "draw on the United States contraband of war and especially arms worth billions of marks." These principles, as the Ambassador stated, have been accepted by the United States Government in the state-

ment issued by the Department of State on October 15th last, entitled "Neutrality and Trade in Contraband."^{68a} Acting in conformity with the propositions there set forth, the United States has itself taken no part in contraband traffic, and has, so far as possible, lent its influence toward equal treatment for all belligerents in the matter of purchasing arms and ammunition of private persons in the United States.

(10) The United States has not suppressed the sale of dumdum bullets to Great Britain.

On December 5 last, the German Ambassador addressed a note to the Department, stating that the British Government had ordered from the Winchester Repeating Arms Company 20,000 "riot guns", Model 1897, and 50,000,000 "buckshot cartridges" for use in such guns. The Department replied that it saw a published statement of the Winchester Company, the correctness of which the Company has confirmed to the Department by telegraph. In this statement the Company categorically denies that it has received an order for such guns and cartridges from, or made any sales of such material to the British Government, or to any other government engaged in the present war. The Ambassador further called attention to "information, the accuracy of which is not to be doubted", that 8,000,000 cartridges fitted with "mushroom bullets" had been delivered since October of this year by the Union Metallic Cartridge Company for the armament of the English army. In reply the Department referred to the letter of December 10, 1914, of the Remington Arms-Union Metallic Cartridge Company of New York to the Ambassador, called forth by certain newspaper reports of statements alleged to have been made by the Ambassador in regard to the sales by that Company of soft-nosed bullets.

From this letter, a copy of which was sent to the Department by the Company, it appears that instead of 8,000,000 cartridges having been sold, only a little over 117,000 were manufactured and 109,000 were sold. The letter further asserts that these cartridges were made to supply a demand for a better sporting cartridge with a soft-nosed bullet than had been manufactured theretofore; and that such cartridges cannot be used in the military rifles of any foreign powers.

The company adds that its statements can be substantiated and that it is ready to give the Ambassador any evidence that he may require on these points. The Department further stated that it was also in receipt from the company of a complete detailed list of the persons to whom these cartridges were sold, and that from this list it appeared that the cartridges were sold to firms in lots of 20 to 2,000 and

^{68a} Document 20.

one lot each of 3,000, 4,000, and 5,000. Of these only 960 cartridges went to British North America and 100 to British East Africa.

The Department added that, if the Ambassador could furnish evidence that this or any other company is manufacturing and selling for the use of the contending armies in Europe cartridges whose use would contravene the Hague Conventions, the Department would be glad to be furnished with this evidence, and that the President would, in case any American company is shown to be engaged in this traffic, use his influence to prevent so far as possible sales of such ammunition to the powers engaged in the European war, without regard to whether it is the duty of this Government upon legal or conventional grounds to take such action.

The substance of both the Ambassador's note and the Department's reply have appeared in the press.

The Department has received no other complaints of alleged sales of dum dum bullets by American citizens to belligerent governments.

(11) British warships are permitted to lie off American ports and intercept neutral vessels.

The complaint is unjustified from the fact that representations were made to the British Government that the presence of war vessels in the vicinity of New York Harbor was offensive to this Government and a similar complaint was made to the Japanese Government as to one of its cruisers in the vicinity of the port of Honolulu. In both cases the warships were withdrawn.

It will be recalled that in 1863 the Department took the position that captures made by its vessels after hovering about neutral ports would not be regarded as valid. In the Franco-Prussian war President Grant issued a proclamation warning belligerent warships against hovering in the vicinity of American ports for purposes of observation or hostile acts. The same policy has been maintained in the present war, and in all of the recent proclamations of neutrality the President states that such practice by belligerent warships is "unfriendly and offensive."

(12) Great Britain and her Allies are allowed without protest to disregard American citizenship papers and passports.

American citizenship papers have been disregarded in a comparatively few instances by Great Britain, but the same is true of all the belligerents. Bearers of American passports have been arrested in all the countries at war. In every case of apparent illegal arrest the United States Government has entered vigorous protests with request for release. The Department does not know of any cases, except one or two which are still under investigation, in which naturalized Germans have not been released upon representations by

this Government. There have, however, come to the Department's notice authentic cases in which American passports have been fraudulently obtained and used by certain German subjects.

The Department of Justice has recently apprehended at least four persons of German nationality who, it is alleged, obtained American passports under pretense of being American citizens and for the purpose of returning to Germany without molestation by her enemies during the voyage. There are indications that a systematic plan had been devised to obtain American passports through fraud for the purpose of securing safe passage for German officers and reservists desiring to return to Germany. Such fraudulent use of passports by Germans themselves can have no other effect than to cast suspicion upon American passports in general. New regulations, however, requiring among other things the attaching of a photograph of the bearer to his passport, under the seal of the Department of State, and the vigilance of the Department of Justice, will doubtless prevent any further misuse of American passports.

(13) *Change of Policy in Regard to Loans to Belligerents.*

War loans in this country were disapproved because inconsistent with the spirit of neutrality. There is a clearly defined difference between a war loan and the purchase of arms and ammunition. *The policy of disapproving of war loans affects all governments alike, so that the disapproval is not an unneutral act.* The case is entirely different in the matter of arms and ammunition because prohibition of export not only might not, but, in this case, would not operate equally upon the nations at war. Then, too, the reason given for the disapproval of war loans is supported by other considerations which are absent in the case presented by the sale of arms and ammunition. The taking of money out of the United States during such a war as this might seriously embarrass the Government in case it needed to borrow money and it might also seriously impair this Nation's ability to assist the neutral nations which, though not participants in the war are compelled to bear a heavy burden on account of the war, and, again, a war loan, if offered for popular subscription in the United States, would be taken up chiefly by those who are in sympathy with the belligerent seeking the loan. The result would be that great numbers of the American people might become more earnest partisans, having material interest in the success of the belligerent, whose bonds they hold. These purchases would not be confined to a few, but would spread generally throughout the country, so that the people would be divided into groups of partisans, which would result in intense bitterness and might cause an undesirable, if not a serious, situation. On the other hand, contracts for and sales of contraband are mere matters of trade. The manufacturer, unless

peculiarly sentimental, would sell to one belligerent as readily as he would to another. No general spirit of partisanship is aroused—no sympathies excited. The whole transaction is merely a matter of business.

This Government has not been advised that any general loans have been made by foreign governments in this country since the President expressed his wish that loans of this character should not be made.

(14) Submission to arrest of native born Americans on neutral vessels and in British ports and their imprisonment.

The general charge as to the arrest of American-born citizens on board neutral vessels and in British ports, the ignoring of their passports, and their confinement in jails, requires evidence to support it. That there have been cases of injustice of this sort is unquestionably true, but Americans in Germany have suffered in this way as Americans have in Great Britain. This Government has considered that the majority of these cases resulted from over-zealousness on the part of subordinate officials in both countries. Every case which has been brought to the attention of the Department of State, has been promptly investigated, and, if the facts warranted, a demand for release has been made.

(15) Indifference to confinement of non-combatants in detention camps in England and France.

As to the detention of non-combatants confined in concentration camps, all the belligerents, with perhaps the exception of Servia and Russia, have made similar complaints and those for whom this Government is acting have asked investigations, which representatives of this Government have made impartially. Their reports have shown that the treatment of prisoners is generally as good as possible under the conditions in all countries, and that there is no more reason to say that they are mistreated in one country than in another country or that this Government has manifested an indifference in the matter. As this Department's efforts at investigations seemed to develop bitterness between the countries, the Department on November 20 sent a circular instruction to its representatives not to undertake further investigation of concentration camps.

But at the special request of the German Government that Mr. Jackson, former American Minister at Bucharest, now attached to the American Embassy at Berlin, make an investigation of the prison camps in England, in addition to the investigations already made, the Department has consented to despatch Mr. Jackson on this special mission.

(16) *Failure to prevent transshipment of British troops and war materials across the territory of the United States.*

The Department has had no specific case of the passage of convoys or [of] troops across American territory brought to its notice. There have been rumors to this effect but no actual facts have been presented. The transshipment of reservists of all belligerents who have requested the privilege, has been permitted on condition that they travel as individuals and not as organized, uniformed or armed bodies. The German Embassy has advised the Department that it would not be likely to avail itself of the privilege, but Germany's ally, Austria-Hungary, did so.

Only one case raising the question of the transit of war material owned by a belligerent across United States territory has come to the Department's notice. This was a request on the part of the Canadian Government for permission to ship equipment across Alaska to the sea. The request was refused.

(17) *Treatment and final internment of German S. S. "Geier" and the collier "Locksun" at Honolulu.*

The *Geier* entered Honolulu on October 15th in an unseaworthy condition. The commanding officer reported the necessity of extensive repairs which would require an indefinite period for completion. The vessel was allowed the generous period of three weeks to November 7th to make repairs and leave the port, or failing to do so, to be interned. A longer period would have been contrary to international practice, which does not permit a vessel to remain for a long time in a neutral port for the purpose of repairing a generally run down condition due to long sea service. Soon after the German cruiser arrived at Honolulu a Japanese cruiser appeared off the port and the commander of the *Geier* chose to intern the vessel rather than to depart from the harbor.

Shortly after the *Geier* entered the port of Honolulu the steamer *Locksun* arrived. It was found that this vessel had delivered coal to the *Geier* en route and had accompanied her toward Hawaii. As she had thus constituted herself a tender or collier to the *Geier* she was accorded the same treatment and interned on November 7th.

(18) *Unfairness to Germany in rules relative to coaling of warships in Panama Canal Zone.*

By proclamation of November 13, 1914, certain special restrictions were placed on the coaling of warships or their tenders or colliers in the Canal Zone. These regulations were framed through the collaboration of the State, Navy and War Departments and without the slightest reference to favoritism to the belligerents. Before these

regulations were proclaimed war vessels could procure coal of the Panama Railway in the Zone ports but no belligerent vessels are known to have done so. Under the Proclamation fuel may be taken on by belligerent warships only with the consent of the Canal authorities, and in such amounts as will enable them to reach the nearest accessible neutral port; and the amount so taken on shall be deducted from the amount procurable in United States ports within three months thereafter. Now it is charged the United States has shown partiality, because Great Britain and not Germany happens to have colonies in the near vicinity where British ships may coal, while Germany has no such coaling facilities. Thus it is intimated the United States should balance the inequalities of geographical position by refusal to allow any warships of belligerents to coal in the Canal until the war is over. As no German warship has sought to obtain coal in the Canal Zone the charge of discrimination rests upon a possibility which during several months of warfare has failed to materialize.

(19) Failure to protest against the modifications of the Declaration of London by the British Government.

The German Foreign Office presented to the diplomats in Berlin a memorandum dated October 10th, calling attention to violations of, and changes in, the Declaration of London by the British Government and inquiring as to the attitude of the United States toward such action on the part of the Allies. The substance of the memorandum was forthwith telegraphed to the Department on October 22nd, and was replied to shortly thereafter to the effect that the United States had withdrawn its suggestion, made early in the war, that for the sake of uniformity, the Declaration of London should be adopted as a temporary code of naval warfare during the present war, owing to the unwillingness of the belligerents to accept the Declaration without changes and modifications, and that thenceforth the United States would insist that the rights of the United States and its citizens in the war should be governed by the existing rules of international law.⁶⁹

As this Government is not now interested in the adoption of the Declaration of London by the belligerents, the modifications by the belligerents in that code of naval warfare are of no concern to it except as they adversely affect the rights of the United States and those of its citizens as defined by international law. Insofar as those rights have been infringed the Department has made every effort to obtain redress for the losses sustained.

⁶⁹ Document 26.

(20) *General unfriendly attitude of Government toward Germany and Austria.*

If any American citizens, partisans of Germany and Austria-Hungary, feel that this administration is acting in a way injurious to the cause of those countries, this feeling results from the fact that on the high seas the German and Austro-Hungarian naval power is thus far inferior to the British. It is the business of a belligerent operating on the high seas, not the duty of a neutral, to prevent contraband from reaching an enemy. Those in this country, who sympathize with Germany and Austria-Hungary, appear to assume that some obligation rests upon this Government, in the performance of its neutral duty, to prevent all trade in contraband, and thus to equalize the difference due to the relative naval strength of the belligerents. No such obligation exists; it would be an unneutral act, an act of partiality on the part of this Government, to adopt such a policy if the Executive had the power to do so. If Germany and Austria-Hungary cannot import contraband from this country it is not, because of that fact, the duty of the United States to close its markets to the Allies. The markets of this country are open upon equal terms to all the world, to every nation, belligerent or neutral.

The foregoing categorical replies to specific complaints is sufficient answer to the charge of unfriendliness to Germany and Austria-Hungary.

I am [etc.]

W. J. BRYAN

45

*The Secretary of State to the Ambassador in Great Britain (Page)*⁷⁰

No. 516

WASHINGTON, January 21, 1915.

SIR: The Department encloses for your information a copy of a letter addressed to it by Senators D. U. Fletcher, N. P. Bryan, Hoke Smith, Thomas W. Hardwick, J. H. Bankhead, Frank S. White, Lee S. Overman, J. R. Thornton, John Sharp Williams, Morris Sheppard, James K. Vardaman, Joseph E. Ransdell, F. M. Simmons, C. A. Culberson, and B. R. Tillman, wherein, on behalf of the States of Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Texas, they urge that steps be taken to the end that rosin and turpentine be removed from the British contraband list.

You are directed to lay the matter appropriately before the British Foreign Office with a view to having, if possible, the British Government amend its list of contraband by omitting rosin there-

⁷⁰ File No. 763.72112/691; For. Rel., 1915, supp., p. 200.

from. This matter has been under careful consideration since notification of the action of the British Government in placing rosin on the list of contraband, and the Department is now convinced that the amount of rosin which may or will be used by Germany and Austria in the preparation of explosives or munitions of war is not of particular consequence, as the present known quantities of rosin in those countries would afford them a supply for that use for an indefinite period. Attention is directed to the statement made in the enclosure that rosin is not now used by American manufacturers of munitions of war, other articles being substituted for it. While it is not intended to challenge the statement made by the British Government that a certain amount of rosin is used in the preparation of explosives to render them impervious to dampness, it is submitted that the amount of rosin which will be used for this purpose is comparatively small and that to prevent exports of rosin to those countries will only affect, in any substantial way, the trade of this country in the article for commercial uses.

The placing of rosin on the list of contraband has also affected its export to neutral countries, ship lines declining to accept shipments of it to the neutral countries of Europe so long as it remains on the list of contraband. It is not doubted that the British Government will give the matter very careful consideration and it is hoped that that Government will conclude that exports of rosin from this country to the territories of their enemies will not materially affect the issues of war, and will see their way clear to restore it to its former position as non-contraband.

I am [etc.]

For the Secretary of State:

ROBERT LANSING

46

*The Secretary of State to the Ambassador in Great Britain (Page)*⁷¹

[Telegram]

WASHINGTON, January 23, 1915—4 p.m.

1019. The President directs me to send the following:

"Answering your two telegrams in regard to the irritation and apparent change in public opinion regarding the United States, you will please discuss the matter again with Sir Edward Grey in effect as follows: We regret exceedingly to learn that the British public entertains any doubt as to the strict neutrality of this Government or as to the support given by the general public to the Government's position. This is probably due to the fact that a

⁷¹ File No. 763.72112/796a; For. Rel., 1915, supp., p. 684.

portion of the British public is quite naturally uninformed as to the character of our population.

While the English element predominated in the original stock the immigration in latter years has been largely from other countries. Germany and Ireland, for instance, have contributed very materially during the last half century and among those who are the children of foreign born parents the German element now predominates. This element is not only numerous but it has a strong representation in financial, mercantile life and agriculture. Congressman Bartholdt is a naturalized American with a long service in Congress. A considerable portion of the voters of his district are naturalized Germans or of German descent. There need be no fear that his proposals will be adopted; but they are a sample of our difficulties. There is, of course, not the slightest alteration in the cordial feeling which has always existed between the United States and Great Britain. Mere debate and newspaper agitation will not alter that feeling; but acts which seem to them arbitrary, unnecessary, and contrary to the recognized rules of neutral commerce may alter it very seriously, because the great majority of our people are trying in good faith to live within those rules and they are sensitive about nothing more than about their legitimate trade.

It is worth while to enumerate some of the chief causes of irritation on this side the water, because they are causes which can be removed and which this Government would be glad to cooperate to remove.

First, the interruption in exports has very seriously affected cotton, which is the staple product of the southern states. Cotton for a while was very low the price being probably not more than half of the ordinary price. As a fall of one cent in cotton means a loss of eighty millions of dollars to the cotton-growing states, they estimated their loss at three or four hundred millions of dollars. The price has risen as ships have been slowly secured, but the number of bottoms is still wholly inadequate and the scarcity of ships has resulted in a rise of freight rates of four, five, six, and even seven hundred per cent. This double tax upon the leading industry of a whole section has aroused a complaint which is being voiced by members of congress and senators from that section. Moreover, it has seriously affected the whole financial situation of the country inasmuch as cotton is the crop with which the foreign balances against this country have usually been paid at this season of the year.

Next, the copper situation has been embarrassing. A large number of people were thrown out of employment in the mining districts just as winter was coming on and the senators and members from the mountain states have been kept busy meeting and making explanations to those most affected.

Third, the export of arms, ammunition and horses to the allies is, of course, known and the protests made by German-Americans and by a portion of the Irish-Americans, while entirely without justification, is not unnatural. It is difficult for people to think logically when their sympathies are aroused. The Government

has done all in its power to make the situation plain and has today issued a lengthy letter answering numerous criticisms that have been made.

The *Dacia* case has received a great deal of newspaper notoriety because of predictions as to what would be done with her. Breitung, seeing that there was a chance to profit by the high freight rates, decided to buy a ship. He first tried to buy an English ship and then a French ship but as his correspondence shows he failed to secure a ship from either country. He then bought the *Dacia*, paying for it about three-fourths of what it cost fourteen years ago when it was built. He secured a cargo of cotton and intended to sail for Bremen. When he was informed that it would be wiser to go to Rotterdam he changed the route and planned to sail to Rotterdam. The inquiries which have come to the State Department have come from the owners of the cotton, rather than from the owner of the ship. The Government has had nothing to do with the transaction further than to make inquiries for interested parties. Whether the ship is taken into the prize court or not is a question between the British Government and the owner of the ship, but, if it is taken into the prize court the court will of course decide upon the evidence produced and so far as we know the evidence will support the *bona fides* of the transactions. If the evidence shows that the sale was made in good faith the transfer cannot be objected to according to the rules recognized by both Great Britain and the United States. A change in these rules at this time could not be made by the United States and it would seem to be an inopportune time for Great Britain to change them. Great Britain fears that the *Dacia* might be made a precedent and that other German interned ships would be bought in case the *Dacia* sale was not contested. That is true and yet the precedent would only stand in case the sales were *bona fide* in which case they would come within the rules. The chief point presented in your despatch is that Great Britain is trying to bring pressure to bear upon Germany by preventing the sale of interned German ships. This is perfectly legitimate so long as the pressure is exerted according to the international law, but the pressure becomes illegitimate if well settled rules are violated, and a well-settled rule would be violated if an attempt was made to prevent a *bona fide* sale.

The point which should be made very clear to the British authorities as our view and purpose in the whole matter if such purchases are made is that as a matter of actual fact such purchases do not constitute a restoration of German commerce to the seas. Such ships would not and could not be used on the former routes or with the former and usual cargoes and would serve as German commerce in no particular. They would serve only the trade of the United States with neutral countries and within the limits necessarily set by war and all its conditions. The withdrawal of so many ships from the seas is so far a curtailment of the commerce of the United States. The United States cannot in the circumstances sell articles to Germany which the rules of war or the circumstances now existing forbid. The owners of the ships bought from German owners cannot use them on

the routes or to the ports which would serve their former owners as the carriers of German commerce. They would be used on new routes and for the release of American merchandise to new ports. They would represent an extension of American commerce, not a renewal of German. This cannot be justly or even plausibly regarded as an effort to relieve the present economic pressure on Germany or to recreate anything that Great Britain had a right to destroy. America must have ships and must have them for these uses. She will build them if she cannot find them for sale. The legitimate restoration of American commerce may be delayed but it cannot be prevented. It cannot be part of the purpose of the British government to put an intolerable economic pressure on the United States, as might very easily be the result if its attitude as reflected in your note is maintained. It is not unlikely that this great hardship will suggest legislation looking to the encouragement of American shipping. Already provision has been made for the transfer and register of foreign bottoms and congress is considering a measure authorizing the Government to take part in a corporation for the operation of ships. These measures have been the outgrowth of six months of war. Is it not worth while to consider the possibilities of the future? If this Government must undertake the building of enough ships to carry its commerce while idle ships lie in its harbors will there not be an excess of ships when the war is over?

You may assure Sir Edward that this Government will adhere conscientiously to its course of neutrality. It will not intentionally deviate a hair's breadth from the line but it is powerless to prevent the increasing criticism which has been aroused by acts which have, from the American standpoint, seemed unnecessarily severe for the enforcement of belligerent rights. Say to Sir Edward that we shall take up and consider each question upon its merits and appreciate the candid and friendly spirit which the Foreign Office has manifested. We hope that both Governments may be successful in lessening the criticism and moderating the language of individual citizens.

We are struck by the very encouraging fact that in the principles which they both recognize in such matters the two governments are practically in agreement. What is lacking is merely the adoption of some practical method by which individual cases of dispute or question may be reduced to a negligible minimum. It ought to be possible for two governments so genuinely friendly and so nearly of one mind with regard to the principles involved to agree upon means by which good faith and entire compliance with the proper restrictions of a time of war and of national defence can be determined with the smallest possible number of seizures and trials in prize courts. We earnestly invite attention to the feasibility of devising and settling upon such methods and would not only welcome but earnestly desire practical suggestions looking to that end. The English government can thus be assured of compliance with all its just regulations and of freedom from even the risk of friction and hostile sentiment as between the two nations."

BRYAN

47

*The Secretary of State to the Secretary of the Treasury (McAdoo)*⁷²

WASHINGTON, February 3, 1915.

MY DEAR MR. SECRETARY: I have the honor to acknowledge receipt of your letter of February 1, addressed to Solicitor Johnson, enclosing one from Mr. George E. Warren of New York, who desires to know whether a cargo of foodstuffs consigned to Germany would or would not be considered contraband, and in reply beg leave to say that the right of neutrals to ship foodstuffs and other conditional contraband to the territories of belligerents, when destined and intended for use by the civilian population and not destined or intended for ultimate delivery to a department of the belligerent government, or its armed forces, is well established. But shippers proposing to send foodstuffs to Germany should consider the situation produced by reported recent decree of the German authorities, which, from the accounts of it received by the Department, appears to establish governmental control, if not to constitute expropriation, of the food supply in Germany. The British Government has said that, in view of this decree and its effect, they must regard shipments of foodstuffs to Germany as, in fact, destined for the German Government. Without at this time undertaking to determine the effect of the decree, the text of which we have not, the Department feels that interested persons should be advised that the status of shipments of provisions to Germany is put in doubt by reason of the decree mentioned.

I have [etc.]

W. J. BRYAN

48

*The German Ambassador (Bernstorff) to the Secretary of State*⁷³

[Translation]

J. Nr. A 876

WASHINGTON, February 7, 1915.

[Received February 8.]

MR. SECRETARY OF STATE: I have the honor to transmit to you herewith a copy of the Imperial Chancellor's proclamation concerning Great Britain's conduct of the war, as received here by wireless.⁷⁴

Accept [etc.]

For the Imperial Ambassador:

HANIEL

⁷² File No. 763.72112/696; For. Rel., 1915, supp., p. 318.

⁷³ File No. 763.72/1438; For. Rel., 1915, supp., p. 95.

⁷⁴ The text enclosed, which is in English translation only, is printed as the first copy of this memorandum to reach the Department. A second English version, telegraphed by the Ambassador in Germany, was received on Feb. 10,

[Enclosure]

The German Foreign Office to the German Embassy at Washington

Following full text of memorandum of the Imperial German Government concerning retaliation against measures taken by England in violation of international law to stop neutral sea commerce with Germany:

"Since the beginning of the present war Great Britain has carried on a mercantile warfare against Germany in a way that defies all the principles of international law. It is true the British Government has announced in a number of decrees the London declaration concerning naval warfare to be binding on its naval forces, but in reality she has renounced the declaration in its most important particulars, although her own delegates at the London conference on naval warfare had recognized its conclusions to be valid as international law.

The British Government has put a number of articles in the list of contraband which are not or at most only indirectly useful for military purposes and therefore according to the London declaration as well as according to the universally recognized rules of international law may not be designated as contraband. She has further actually abolished the distinction between absolute and relative contraband, inasmuch as she has subjected to capture all articles of relative contraband intended for Germany without reference to the harbor in which they are to be unloaded or to the hostile or peaceful use to which they are to be put.

She does not even hesitate to violate the Paris declaration, as her naval forces have seized on neutral ships German property that was not contraband in violation of her own desires concerning the London declaration she has further through her naval forces taken from neutral ships numerous Germans liable to military service and has made of them prisoners of war. Finally she has declared the entire North Sea to be an area of war, and if she has not made impossible the passage of neutral shipping through the sea between Scotland and Norway, has rendered it so difficult and so dangerous, that she has to a certain extent effected a blockade of neutral coasts and neutral ports in violation of all international law.

All these measures have the obvious purpose through the illegal paralysation of legitimate neutral commerce not only to strike at the German military strength, but also at the economic life of Germany and finally through starvation doom the entire population of Germany to destruction.

1915 (File No. 763.72/1443). A third, together with a copy of the German original and a French translation, was received on Feb. 24, 1915, with the Ambassador's despatch No. 525 (File No. 763.72/1495).

The neutral powers have generally acquiesced in the steps taken by the English Government, especially they have not succeeded in inducing the British Government to restore the German individuals and property seized in violation of international law. In certain directions they have also aided the British measures, which are irreconcilable with the freedom of the sea, in that they have obviously under the pressure of England hindered by export and transit embargoes the transit of wares for peaceful purposes to Germany. The German Government has in vain called the attention of neutral powers to the fact, that it must face the question of whether it can longer persevere in its hitherto strict observance of the rules of the London declaration, if Great Britain were to continue its course, and the neutral powers were to continue to acquiesce in these violations of neutrality to the detriment of Germany; for her violations of international law Great Britain pleads the vital interests which the British empire has at stake, and the neutral powers seem to satisfy themselves with theoretical protest. Therefore in fact they accept the vital interests of belligerents as sufficient excuse for every method of warfare. Germany must now appeal to these same vital interests to its regret. It therefore sees itself forced to military measures aimed at England in retaliation against the English procedure. Just as England has designated the area between Scotland and Norway as an area of war, so Germany now declares all the waters surrounding Great Britain and Ireland including the entire English channel as an area of war, and thus will proceed against the shipping of the enemy.

For this purpose beginning February 18th, 1915, it will endeavour to destroy every enemy merchant ship that is found in this area of war without its always being possible to avert the peril, that thus threatens persons and cargoes. Neutrals are therefore warned against further entrusting crews passengers and wares to such ships. Their attention also called to the fact, that it is advisable for their ships to avoid entering this area, for even though the German naval forces have instructions to avoid violence to neutral ships in so far as they are recognizable, in view of the misuse of neutral flags ordered by the British Government and the contingencies of naval warfare their becoming victims of torpedoes directed against enemy ships cannot always be avoided; at the same time it is specifically noted that shipping north of Shetland Islands in the eastern area of the northsea and in a strip of at least 30 sea miles in the width along the Netherlands coast is not imperilled. The German Government gives such early notice of these measures, that hostile as well as neutral ships may have time accordingly to adapt their plans for landing at ports in this area of war and may expect that the neutral powers will show no less consideration for the vital interests of Germany than

for those of England and will aid in keeping their citizens and the property of the latter from this area. This is the more to be expected, as it must be to the interest of the neutral powers to see this destructive war end as soon as possible.

BERLIN, *February 4th, 1915.*"

49

*The Secretary of State to the Ambassador in Germany (Gerard)*⁷⁵

[Telegram]

WASHINGTON, *February 10, 1915—1 p.m.*

1163. Please address a note immediately to the Imperial German Government to the following effect:

The Government of the United States, having had its attention directed to the proclamation of the German Admiralty issued on the 4th of February, that the waters surrounding Great Britain and Ireland, including the whole of the English Channel, are to be considered as comprised within the seat of war; that all enemy merchant vessels found in those waters after the 18th instant will be destroyed, although it may not always be possible to save crews and passengers; and that neutral vessels expose themselves to danger within this zone of war because, in view of the misuse of neutral flags said to have been ordered by the British Government on the 31st of January and of the contingencies of maritime warfare, it may not be possible always to exempt neutral vessels from attacks intended to strike enemy ships, feels it to be its duty to call the attention of the Imperial German Government, with sincere respect and the most friendly sentiments but very candidly and earnestly, to the very serious possibilities of the course of action apparently contemplated under that proclamation.

The Government of the United States views those possibilities with such grave concern that it feels it to be its privilege, and indeed its duty in the circumstances, to request the Imperial German Government to consider before action is taken the critical situation in respect of the relations between this country and Germany which might arise were the German naval forces, in carrying out the policy foreshadowed in the Admiralty's proclamation, to destroy any merchant vessel of the United States or cause the death of American citizens.

It is of course not necessary to remind the German Government that the sole right of a belligerent in dealing with neutral vessels on the high seas is limited to visit and search, unless a blockade is proclaimed and effectively maintained, which this Government does not understand to be proposed in this case. To declare or exercise a right to attack and destroy any vessel entering a prescribed area of the high seas without first certainly determining its belligerent

⁷⁵ File No. 763.72/1434; For. Rel., 1915, supp., p. 98.

nationality and the contraband character of its cargo would be an act so unprecedented in naval warfare that this Government is reluctant to believe that the Imperial Government of Germany in this case contemplates it as possible. The suspicion that enemy ships are using neutral flags improperly can create no just presumption that all ships traversing a prescribed area are subject to the same suspicion. It is to determine exactly such questions that this Government understands the right of visit and search to have been recognized.

This Government has carefully noted the explanatory statement issued by the Imperial German Government at the same time with the proclamation of the German Admiralty, and takes this occasion to remind the Imperial German Government very respectfully that the Government of the United States is open to none of the criticisms for unneutral action to which the German Government believe the governments of certain other neutral nations have laid themselves open; that the Government of the United States has not consented to or acquiesced in any measures which may have been taken by the other belligerent nations in the present war which operate to restrain neutral trade, but has, on the contrary, taken in all such matters a position which warrants it in holding those governments responsible in the proper way for any untoward effects upon American shipping which the accepted principles of international law do not justify; and that it, therefore, regards itself as free in the present instance to take with a clear conscience and upon accepted principles the position indicated in this note.

If the commanders of German vessels of war should act upon the presumption that the flag of the United States was not being used in good faith and should destroy on the high seas an American vessel or the lives of American citizens, it would be difficult for the Government of the United States to view the act in any other light than as an indefensible violation of neutral rights which it would be very hard indeed to reconcile with the friendly relations now so happily subsisting between the two governments.

If such a deplorable situation should arise, the Imperial German Government can readily appreciate that the Government of the United States would be constrained to hold the Imperial German Government to a strict accountability for such acts of their naval authorities and to take any steps it might be necessary to take to safeguard American lives and property and to secure to American citizens the full enjoyment of their acknowledged rights on the high seas.

The Government of the United States, in view of these considerations, which it urges with the greatest respect and with the sincere purpose of making sure that no misunderstanding may arise and no circumstance occur that might even cloud the intercourse of the two governments, expresses the confident hope and expectation that the Imperial German Government can and will give assurance that American citizens and their vessels will not be molested by the naval forces of Germany otherwise than by visit and search, though their vessels may be traversing the sea area delimited in the proclamation of the German Admiralty.

It is added for the information of the Imperial Government that representations have been made to His Britannic Majesty's Government in respect to the unwarranted use of the American flag for the protection of British ships.

BRYAN

50

The Secretary of State to the Ambassador in Great Britain (Page) ⁷⁶

[Telegram]

WASHINGTON, February 10, 1915—1 p.m.

1105. The Department has been advised of the Declaration of the German Admiralty on February 4th,⁷⁷ indicating that the British Government had on January 31st explicitly authorized the use of neutral flags on British merchant vessels presumably for the purpose of avoiding recognition by German naval forces. The Department's attention has also been directed to reports in the press that the captain of the *Lusitania*, acting upon orders or information received from the British authorities, raised the American flag as his vessel approached the British coasts, in order to escape anticipated attacks by German submarines. To-day's press reports also contain an alleged official statement of the Foreign Office defending the use of the flag of a neutral country by a belligerent vessel in order to escape capture or attack by an enemy.

Assuming that the foregoing reports are true the Government of the United States, reserving for future consideration the legality and propriety of the deceptive use of the flag of a neutral power in any case for the purpose of avoiding capture, desires very respectfully to point out to His Britannic Majesty's Government the serious consequences which may result to American vessels and American citizens if this practice is continued.

The occasional use of the flag of a neutral or an enemy under the stress of immediate pursuit and to deceive an approaching enemy, which appears by the press reports to be represented as the precedent and justification used to support this action, seems to this Government a very different thing from an explicit sanction by a belligerent government for its merchant ships generally to fly the flag of a neutral power within certain portions of the high seas which are presumed to be frequented with hostile warships. The formal declaration of such a policy of general misuse of a neutral's flag jeopardizes the vessels of the neutral visiting those waters in a peculiar degree by raising the presumption that they are of belligerent nationality regardless of the flag which they may carry.

⁷⁶ File No. 811.0151/33; For. Rel., 1915, supp., p. 100.

⁷⁷ Document 48.

In view of the announced purpose of the German Admiralty to engage in active naval operations in certain delimited sea areas adjacent to the coasts of Great Britain and Ireland, the Government of the United States would view with anxious solicitude any general use of the flag of the United States by British vessels traversing those waters. A policy such as the one which His Majesty's Government is said to intend to adopt, would, if the declaration of the German Admiralty is put in force, it seems clear, afford no protection to British vessels, while it would be a serious and constant menace to the lives and vessels of American citizens.

The Government of the United States, therefore, trusts that His Majesty's Government will do all in their power to restrain vessels of British nationality from the deceptive use of the flag of the United States in the sea area defined in the German declaration, since such practice would greatly endanger the vessels of a friendly power navigating those waters and would even seem to impose upon the Government of Great Britain a measure of responsibility for the loss of American lives and vessels in case of an attack by a German naval force.

Please present a note to Sir Edward Grey in the sense of the foregoing and impress him with the grave concern which this Government feels in the circumstances in regard to the safety of American vessels and lives in the war zone declared by the German Admiralty.

You may add that this Government is making earnest representations to the German Government in regard to the danger to American vessels and citizens if the Declaration of the German Admiralty is put into effect.

BRYAN

51

*The Secretary of State to the Ambassador in Great Britain (Page)*⁷⁰

[Telegram]

WASHINGTON, February 16, 1915—3 p. m.

1140. Referring to communications repeated to you last night from German Government and the one repeated herein—from these you will see that the German Government specifically exempts imported foodstuffs and also expresses willingness to have foodstuffs from America distributed by American organizations.^{79a} These prop-

⁷⁰ File No. 763.72/1457a; For. Rel., 1915, supp., p. 107.

^{79a} The Department of State had received the following note from the German Embassy on Feb. 8, 1915:

"The German Government expecting that the Government of the United States will extend to American trade with Germany, so far as it does not include contraband, the same protection as to the trade with other countries and in order to forestall all British objections, gives the formal assurance to the Government of the United States that all goods imported to Germany from

sitions would seem to remove the reasons given by Great Britain for stopping food intended for non-combatants. In giving these notes to Sir Edward Grey for his information, please make clear to him informally the position in which this Government finds itself. It cannot escape the conviction that a policy which seeks to keep food from non-combatants, from the civil population of a whole nation, will create a very unfavorable impression throughout the world. It will certainly create, is already showing signs of creating, a strong revulsion of feeling in this country and the result might very easily be such a condemnation of that policy by American opinion, in view of the explicit assurances of the German notes sent last evening and herein, as to be very embarrassing to this Government if it took an inactive position. In the interest of the absolute good feeling that subsists between us these considerations should be very frankly stated. You may suggest that it seems probable that the war zone order would be withdrawn if the food question could be adjusted.

Note from German Embassy, Feb. 15, follows:

BRYAN

52

*The Secretary of State to the Ambassador in Great Britain (Page)*⁸⁰

[Telegram]

WASHINGTON, February 20, 1915—8 p.m.

1169. You will please deliver to Sir Edward Grey the following identical note which we are sending England and Germany:

In view of the correspondence which has passed between this Government and Great Britain and Germany respectively, relative to the Declaration of a war zone by the German Admiralty and the use of neutral flags by British merchant vessels, this Government ventures to express the hope that the two belligerent governments may, through reciprocal concessions, find a basis for agreement which will relieve neutral ships engaged in peaceful commerce from the great dangers which they will incur in the high seas adjacent to the coasts of the belligerents.

The Government of the United States respectfully suggests that an agreement in terms like the following might be entered into. This suggestion is not to be regarded as in any sense a proposal made by this Government, for it of course fully recognizes that it is not its

the United States, directly or indirectly, and which belong to the class of relative contraband, as, i. e. foodstuffs, will not be used by the German army or navy nor by Government authorities, but will be left to the free consumption of the German civilian population excluding all Government's purveyors.

The German Government would also be ready to leave for the duration of the war the sale and distribution of such imported goods, as oil or cereals, to American organizations." (File No. 763.72112/706; For. Rel., 1915, supp., p. 95.)

⁸⁰ File No. 763.72/1498a; For. Rel., 1915, supp., p. 119.

privilege to propose terms of agreement between Great Britain and Germany, even though the matter be one in which it and the people of the United States are directly and deeply interested. It is merely venturing to take the liberty which it hopes may be accorded a sincere friend desirous of embarrassing neither nation involved and of serving, if it may, the common interests of humanity. The course outlined is offered in the hope that it may draw forth the views and elicit the suggestions of the British and German Governments on a matter of capital interest to the whole world.

Germany and Great Britain to agree

(1) That neither will sow any floating mines, whether upon the high seas or in territorial waters; that neither will plant on the high seas anchored mines except within cannon range of harbors for defensive purposes only; and that all mines shall bear the stamp of the government planting them and be so constructed as to become harmless if separated from their moorings;

(2) That neither will use submarines to attack merchant vessels of any nationality except to enforce the right of visit and search;

(3) That each will require their respective merchant vessels not to use neutral flags for the purpose of disguise or *ruse de guerre*.

Germany to agree

That all importations of food or foodstuffs from the United States (and from such other neutral countries as may ask it) into Germany shall be consigned to agencies to be designated by the United States Government; that these American agencies shall have entire charge and control without interference on the part of the German Government, of the receipt and distribution of such importations, and shall distribute them solely to retail dealers bearing licenses from The German Government entitling them to receive and furnish such food and foodstuffs to non-combatants only; that any violation of the terms of the retailers' licenses shall work a forfeiture of their rights to receive such food and foodstuffs for this purpose; and that such food and foodstuffs will not be requisitioned by the German Government for any purpose whatsoever, or be diverted to the use of the armed forces of Germany.

Great Britain to agree

That food and foodstuffs will not be placed upon the absolute contraband list and that shipments of such commodities will not be interfered with or detained by British authorities if consigned to agencies designated by the United States Government in Germany for the receipt and distribution of such cargoes to licensed German retailers for distribution solely to the non-combatant population.

In submitting this proposed basis of agreement this Government does not wish to be understood as admitting or denying any belligerent or neutral right established by the principles of international

law, but would consider the agreement, if acceptable to the interested powers, a *modus vivendi* based upon expediency rather than legal right and as not binding upon the United States either in its present form or in a modified form until accepted by this Government.

BRYAN

53

The Secretary of State to the Ambassador in Great Britain (Page) ⁸¹

[Telegram]

WASHINGTON, March 5, 1915—5 p.m.

1233. In regard to the recent communications received from the British and French Governments concerning restraints upon commerce with Germany, please communicate with the British Foreign Office in the sense following:

The difficulty of determining action upon the British and French declarations of intended retaliation upon commerce with Germany lies in the nature of the proposed measures in their relation to commerce by neutrals.

While it appears that the intention is to interfere with and take into custody all ships both outgoing and incoming, trading with Germany, which is in effect a blockade of German ports, the rule of blockade, that a ship attempting to enter or leave a German port regardless of the character of its cargo may be condemned, is not asserted.

The language of the declaration is "the British and French Governments will therefore hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership or origin. It is not intended to confiscate such vessel[s] or cargoes unless they would otherwise be liable to condemnation."

The first sentence claims a right pertaining only to a state of blockade. The last sentence proposes a treatment of ships and cargoes as if no blockade existed. The two together present a proposed course of action previously unknown to international law.

As a consequence neutrals have no standard by which to measure their rights or to avoid danger to their ships and cargoes. The paradoxical situation thus created should be changed and the declaring powers ought to assert whether they rely upon the rules governing a blockade or the rules applicable when no blockade exists.

The declaration presents other perplexities.

The last sentence quoted indicates that the rules of contraband are to be applied to cargoes detained. The rule covering non-contraband articles carried in neutral bottoms is that the cargoes shall be released and the ships allowed to proceed. This rule cannot under the first sentence quoted be applied as to destination. What then is to be done with a cargo of non-contraband goods detained under the declaration? The same question may be asked as to conditional contraband cargoes.

⁸¹ File No. 763.72/1551; For. Rel., 1915, supp., p. 132.

The foregoing comments apply to cargoes destined for Germany. Cargoes coming out of German ports present another problem under the terms of the declaration. Under the rules governing enemy exports only goods owned by enemy subjects in enemy bottoms are subject to seizure and condemnation. Yet by the declaration it is purposed to seize and take into port all goods of enemy "ownership and *origin*". The word "origin" is particularly significant. The origin of goods destined to neutral territory on neutral ships is not and never has been a ground for forfeiture except in case a blockade is declared and maintained. What then would the seizure amount to in the present case except to delay the delivery of the goods? The declaration does not indicate what disposition would be made of such cargoes if owned by a neutral or if owned by an enemy subject. Would a different rule be applied according to ownership? If so, upon what principles of international law would it rest? And upon what rule if no blockade is declared and maintained could the cargo of a neutral ship sailing out of a German port be condemned? If it is not condemned, what other legal course is there but to release it?

While this Government is fully alive to the possibility that the methods of modern naval warfare, particularly in the use of the submarine for both defensive and offensive operations, may make the former means of maintaining a blockade a physical impossibility, it feels that it can be urged with great force that there should be also some limit to "the radius of activity", and especially so if this action by the belligerents can be construed to be a blockade. It would certainly create a serious state of affairs if, for example, an American vessel laden with a cargo of German origin should escape the British patrol in European waters only to be held up by a cruiser off New York and taken into Halifax.

Similar cablegram sent to Paris.

W. J. BRYAN

54

*The Ambassador in Great Britain (Page) to the Secretary of State*⁸²

[Telegram]

LONDON, March 15, 1915.

[Received March 16—8 a.m.]

1798. Following is the full text of a note, dated today, and an order in council I have just received from Grey:

1. His Majesty's Government have had under careful consideration the enquiries which under instructions from your Government Your Excellency addressed to me on the 8th instant⁸³ regarding the scope and mode of application of the measures, foreshadowed in the British and French declarations of the 1st March, for restric-

⁸² File No. 763.72112/1218; For. Rel., 1915, supp., p. 143.

⁸³ See document 53, *supra*.

ting the trade of Germany. Your Excellency explained and illustrated by reference to certain contingencies the difficulty of the United States Government in adopting a definite attitude towards these measures by reason of uncertainty regarding their bearing upon the commerce of neutral countries.

2. I can at once assure Your Excellency that subject to the paramount necessity of restricting German trade His Majesty's Government have made it their first aim to minimize inconvenience to neutral commerce. From the accompanying copy of the order in council which is to be published today you will observe that a wide discretion is afforded to the Prize Court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the marshal of the Prize Court under the order. I apprehend that the perplexities to which Your Excellency refers will for the most part be dissipated by the perusal of this document and that it is only necessary for me to add certain explanatory observations.

3. The effect of the order in council is to confer certain powers upon the executive officers of His Majesty's Government. The extent to which those powers will be actually exercised and the degree of severity with which the measures of blockade authorized will be put into operation are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities specially charged with the duty of dealing with individual ships and cargoes according to the merits of each case. The United States Government may rest assured that the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive committees concerned will impress upon them the duty of acting with the utmost despatch consistent with the object in view and of showing in every case such consideration for neutrals as may be compatible with that object which is, succinctly stated, to establish a blockade to prevent vessels from carrying goods for or coming from Germany.

4. His Majesty's Government have felt most reluctant at the moment of initiating a policy of blockade to exact from neutral ships all the penalties attaching to a breach of blockade. In their desire to alleviate the burden which the existence of a state of war at sea must inevitably impose on neutral sea-borne commerce they declare their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes which belligerents have always claimed in respect of breaches of blockade. They restrict their claim to the stopping of cargoes destined for or coming from the enemy's territory.

5. As regards cotton, full particulars of the arrangements contemplated have already been explained. It will be admitted that every possible regard has been had to the legitimate interests of the American cotton trade.

6. Finally, in reply to the penultimate paragraph of Your Excellency's note I have the honour to state that it is not intended to interfere with neutral vessels carrying enemy cargo of non-contraband nature outside European waters including the Mediterranean.

ORDER IN COUNCIL

WHEREAS the German Government has issued certain orders which, in violation of the usages of war, purport to declare the waters surrounding the United Kingdom a military area, in which all British and Allied merchant vessels will be destroyed irrespective of the safety of the lives of passengers and crew and in which neutral shipping will be exposed to similar danger in view of the uncertainties of naval warfare;

And whereas in a memorandum accompanying the said orders neutrals are warned against entrusting crews, passengers or goods to British or Allied ships;

[And] whereas such attempts on the part of the enemy give to His Majesty an unquestionable right of retaliation;

And whereas His Majesty has therefore decided to adopt further measures in order to prevent commodities of any kind from reaching or leaving Germany, though such measures will be enforced without risk to neutral ships or to neutral or non-combatant life, and in strict observance of the dictates of humanity;

And whereas the Allies of His Majesty are associated with him in the steps now to be announced for restricting further the commerce of Germany;

His Majesty is therefore pleased by and with the advice of his Privy Council to order and it is hereby ordered as follows:

1. No merchant vessel which sailed from her port of departure after the 1st March, 1915, shall be allowed to proceed on her voyage to any German port.

Unless the vessel receives a pass enabling her to proceed to some neutral or Allied port to be named in the pass, goods on board any such vessel must be discharged in a British port and placed in the custody of the marshal of the Prize Court. Goods so discharged, not being contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the Court, upon such terms as the Court may in the circumstances deem to be just, to the person entitled thereto.

2. No merchant vessel which sailed from any German port after the 1st March, 1915, shall be allowed to proceed on her voyage with any goods on board laden at such port.

All goods laden at such port must be discharged in a British or Allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the Prize Court, and, if not requisitioned for the use of His Majesty, shall be detained or sold under the direction of the Prize Court. The proceeds of goods so sold shall be paid into Court and dealt with in such manner as the Court may in the circumstances deem to be just.

Provided that no proceeds of the sale of such goods shall be paid out of Court until the conclusion of peace, except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided also that nothing herein shall prevent the release of neutral property laden at such enemy port on the application of the proper officer of the Crown.

3. Every merchant vessel which sailed from her port of departure after the 1st March, 1915, on her way to a port other than a German

port, carrying goods with an enemy destination, or which are enemy property, may be required to discharge such goods in a British or Allied port. Any goods so discharged in a British port shall be placed in the custody of the marshal of the Prize Court, and, unless they are contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the Court, upon such terms as the Court may in the circumstances deem to be just, to the person entitled thereto.

Provided that this article shall not apply in any case falling within articles 2 or 4 of this order.

4. Every merchant vessel which sailed from a port other than a German port after the 1st March, 1915, having on board goods which are of enemy origin or are enemy property may be required to discharge such goods in a British or Allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the Prize Court, and, if not requisitioned for the use of His Majesty, shall be detained or sold under the direction of the Prize Court. The proceeds of goods so sold shall be paid into Court and dealt with in such manner as the Court may in the circumstances deem to be just.

Provided that no proceeds of sale of such goods shall be paid out of Court until the conclusion of peace except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided also that nothing herein shall prevent the release of neutral property of enemy origin on the application of the proper officer of the Crown.

5. Any person claiming to be interested in, or to have any claim in respect of, any goods (not being contraband of war) placed in the custody of the marshal of the Prize Court under this order, or in the proceeds of such goods, may forthwith issue a writ in the Prize Court against the proper officer of the Crown and apply for an order that the goods should be restored to him, or that their proceeds should be paid to him, or for such other order as the circumstances of the case may require.

The practice and procedure of the Prize Court shall, so far as applicable, be followed *mutatis mutandis* in any proceedings consequential upon this order.

6. A merchant vessel which has cleared for a neutral port from a British or Allied port, or which has been allowed to pass having an ostensible destination to a neutral port, and proceeds to an enemy port, shall, if captured on any subsequent voyage, be liable to condemnation.

7. Nothing in this order shall be deemed to affect the liability of any vessel or goods to capture or condemnation independently of this order.

8. Nothing in this order shall prevent the relaxation of the provisions of this order in respect of the merchant vessels of any country which declares that no commerce intended for or originating in Germany or belonging to German subjects shall enjoy the protection of its flag.

*The Ambassador in Great Britain (Page) to the Secretary of State*⁸⁴

[Telegram]

LONDON, *March 21, 1915—5 p.m.*

[Received March 22—8 a.m.]

1816. Investigation in as many departments of the Government as possible and many unofficial talks with the best informed men form the basis for the following conclusions.

The blockade differs from previous blockades and from a blockade as defined in the books only in two particulars. (1) It is made by moving cruisers instead of warships stationed at blockaded ports and (2) it permits and contemplates exemptions of neutral ships and cargoes from confiscation. The submarine has, in spite of the book definition, made the first change inevitable in all future blockades. The second change is made to leave the fullest opportunity to favour neutral trade and especially American trade.

The only practical difference that the blockade will make will be the shutting out of cotton and foodstuffs from Germany. Most food stuffs had already been shut out and the English will buy the cotton they stop. The American lawyer who has come here representing the Chicago meat packers is making good progress at satisfactory settlement and arrangements.

The American trade with the Allies is, I am told, increasing rapidly and will grow by leaps till the war ends.

I have the promise of the Government of greater promptness in dealing with stopped ships and cargoes.

The Government is publishing as a White Paper all the correspondence about shipping between the American and British Governments since December 28. Unofficial critics praise the courtesy and admit the propriety of our communications. But they regard them as remote and impracticable. They point out that we have not carried our points, namely that copper should not be contraband, that ships should be searched at sea, that to order cargoes should be valid, that our export trade had fallen off because of the war. They point out these in good natured criticism as evidence of the American love of protest for political effect at home. While the official reception of our communications is dignified the unofficial and general attitude to them is a smile at our love of letter writing as at Fourth of July orations. They quietly laugh at our effort to regulate sea warfare under new conditions by what they regard as lawyers' disquisitions out of textbooks. They [receive] them with courtesy, pay no further

⁸⁴ File No. 763.72/1616; For. Rel., 1915, supp., p. 146.

attention to them, proceed to settle our shipping disputes with an effort at generosity and quadruple their orders from us of war materials. They care nothing for our definitions or general protests but are willing to do us every practical favour and will under no conditions either take our advice or offend us. They regard our writings as addressed either to complaining shippers or to politicians at home.

For these reasons complaints about concrete cases as they arise are more effective than general communications about rules of sea warfare, which must be revised by the submarine, the aeroplane, the mine and our own precedents.

The German submarine blockade is a practical failure. Its chief effect has been to provoke the English blockade of Germany which is effective.

AMERICAN AMBASSADOR

56

*The Ambassador in Germany (Gerard) to the Secretary of State*⁸⁵

[Telegram]

BERLIN, *March 21, 1915—2 p.m.*

[Received March 22—5 p.m.]

1885. Your 1382 giving English note received. Respectfully suggest that if administration is attacked for failing to go to war with England in order to force English blockade of Germany that you can answer that Germany has placed an embargo on so many goods which America needs and has so discriminated against American goods that it hardly seems worth while to go to war to keep up trade relations with a country that does not seem to wish to trade with us. Note absolute embargo on potash, carbolic acid, manganese hydrate, medical oil, machinery, chemicals, surgical instruments and probably five hundred other articles set forth in pamphlets already sent you or on way. Only dyestuffs for a month at a time allowed out. Only three hundred tons cyanide a month. Absolute embargo on all intermediate dye stuffs. This put on through influence of German dye stuffs trust, thinks present time apt for killing all manufacture of dyestuffs in America. For discrimination against American goods, oils, meats, provisions, etc., see my reports 20 and 31 November 5th and 24th, 1913 etc. Returning American ships bringing cotton have to return empty because of this absolute and qualified embargo.

GERARD

⁸⁵ File No. 763.72/1618; For. Rel., 1915, supp., p. 354.

57

*The President to the Secretary of State*⁸⁵

24 March, 1915.

MY DEAR MR. SECRETARY: These notes by Mr. Lansing⁸⁶ are admirable and convincing; but they lead only to debate, and debate with the British Government (which for the time being consists of the War Office and the Admiralty) is at present of no practical avail.

Inconsistencies in the Order and inconsistencies between the Order and Sir Edward Grey's note accompanying it are neither here nor there, as it seems to me; neither is the lack of the ordinary forms of notice of blockade. We are face to face with something they are going to do, and they are going to do it no matter what representations we make. We cannot convince them or change them, we can only show them very clearly what we mean to be our own attitude and course of action and that we mean to hold them to a strict responsibility for every invasion of our rights as neutrals. In short we must make them understand that the discretion which their officials are vested with must be exercised in such a way that the extraordinary "blockade" they are instituting will not in fact violate our rights as neutral traders on the seas.

Take an instance (in the field of argument). It is true that a previous Order in Council adopted all the Declaration of London except the portions defining contraband, as a temporary code of warfare at sea; but that previous Order did not constitute an agreement with any other nation. It was a piece of domestic legislation; and a subsequent Order no doubt repeals it so far as it is inconsistent with it. So that line leads nowhere, I fear.

If, then, we speak only to the facts, is not this our right course? Ought we not to say, in effect: You call this a blockade and mean to maintain it as such; but it is obvious that it is unprecedented in almost every respect, but chiefly in this, that it is a blockade of neutral as well as of belligerent coasts and harbours, which no belligerent can claim as a right. We shall expect therefore that the discretion lodged by the Order in Council in the administrative officers and courts of the crown will be exercised to correct what is irregular in this situation and leave the way open to our legitimate trade. If this is not done we shall have to hold you to a strict accountability for every instance of rights violated and injury

⁸⁵ File No. 763.72112/982½.

⁸⁶ Not printed; suggestions for an answer to the British note of Mar. 15, 1915, printed as document 54.

done; but we interpret Sir Edward Grey's note to mean that this is exactly what will be done.

Note, by the way, the sentence in Page's despatch ^{86a} in which he says that they will heed none of our arguments, but that they will be careful not to offend us in act.

Note, also, that, as a matter of fact, our export trade shows no sign of slackening and that there is little left, by the action of Germany herself (See Gerard's recent despatch ^{86b} and several preceding) for us to trade with Germany in. Our cotton ships bring nothing away on their return voyage.

I hope that Mr. Lansing will be kind enough to try his hand at a note such as I have indicated, and then we can get together (perhaps all three of us?) and put the thing into a shape that will thoroughly hold water (and exclude it, too, as a maritime paper should).

Faithfully yours,

W. W.

58

The Secretary of State to the Ambassador in Great Britain (Page) ⁸⁷

[Telegram]

WASHINGTON, *March 30, 1915—8 p.m.*

1343. You are instructed to deliver the following to His Majesty's Government in reply to your numbers 1795 and 1798 of March 15th.

The Government of the United States has given careful consideration to the subjects treated in the British notes of March 13th and March 15th, and to the British Order in Council of the latter date.⁸⁸

These communications contain matters of grave importance to neutral nations. They appear to menace their rights of trade and intercourse not only with belligerents but also with one another. They call for frank comment in order that misunderstandings may be avoided. The Government of the United States deems it its duty, therefore, speaking in the sincerest spirit of friendship, to make its own view and position with regard to them unmistakably clear.

The Order in Council of the 15th [*11th*] of March would constitute, were its provisions to be actually carried into effect as they stand, a practical assertion of unlimited belligerent rights over

^{86a} Document 55.

^{86b} *Supra*.

⁸⁷ File No. 763.72/1588; For. Rel., 1915, supp., p. 152.

A copy of this telegram was sent on the same date to the Ambassador in France with instructions to present to the French Foreign Office "a copy of this Government's reply to the British note enclosing the Order in Council" of Mar. 11. (File No. 763.72/1589; For. Rel., 1915, supp., p. 156.)

⁸⁸ Reference is made to the order in council of Mar. 11, 1915, enclosed with the note of Mar. 15 from the British Secretary for Foreign Affairs to the American Ambassador, document 54.

neutral commerce within the whole European area and an almost unqualified denial of the sovereign rights of the nations now at peace.

This Government takes it for granted that there can be no question what those rights are. A nation's sovereignty over its own ships and citizens under its own flag on the high seas in time of peace is, of course, unlimited; and that sovereignty suffers no diminution in time of war except insofar as the practice and consent of civilized nations has limited it by the recognition of certain now clearly determined rights which it is conceded may be exercised by nations which are at war.

A belligerent nation has been conceded the right of visit and search, and the right of capture and condemnation if upon examination a neutral vessel is found to be engaged in unneutral service or to be carrying contraband of war intended for the enemy's government or armed forces. It has been conceded the right to establish and maintain a blockade of an enemy's ports and coasts and to capture and condemn any vessel taken in trying to break the blockade. It is even conceded the right to detain and take to its own ports for judicial examination all vessels which it suspects for substantial reasons to be engaged in unneutral or contraband service and to condemn them if the suspicion is sustained. But such rights, long clearly defined both in doctrine and practice, have hitherto been held to be the only permissible exceptions to the principle of universal equality of sovereignty on the high seas as between belligerents and nations not engaged in war.

It is confidently assumed that His Majesty's Government will not deny that it is a rule sanctioned by general practice that, even though a blockade should exist and the doctrine of contraband as to unblockaded territory be rigidly enforced, innocent shipments may be freely transported to and from the United States through neutral countries to belligerent territory without being subject to the penalties of contraband traffic or breach of blockade, much less to detention, requisition, or confiscation.

Moreover the rules of the Declaration of Paris of 1856,⁸⁹ among them that free ships make free goods, will hardly at this day be disputed by the signatories of that solemn agreement.

His Majesty's Government, like the Government of the United States, have often and explicitly held that these rights represent the best usage of warfare in the dealings of belligerents with neutrals at sea. In this connection I desire to direct attention to the opinion of the Chief Justice of the United States in the case of the *Peterhof*,⁹⁰ which arose out of the Civil War, and to the fact that that opinion was unanimously sustained in the award of the Arbitration Commission of 1871, to which the case was presented at the request of Great Britain. From that time to the Declaration of London of 1909, adopted with modifications by the Order in Council of the 23rd [29th] of October last, these rights have not been seriously questioned by the British Government. And no claim on the part of Great Britain of any justification for interfering with these clear rights of the United States and its citizens as neutrals could be ad-

⁸⁹ See vol. I, document 118, p. 416.

⁹⁰ Vol. I, document 138, p. 466.

mitted. To admit it would be to assume an attitude of unneutrality towards the present enemies of Great Britain which would be obviously inconsistent with the solemn obligations of this Government in the present circumstances; and for Great Britain to make such a claim would be for her to abandon and set at naught the principles for which she has consistently and earnestly contended in other times and circumstances.

The note of His Majesty's Principal Secretary of State for Foreign Affairs which accompanies the Order in Council, and which bears the same date, notifies the Government of the United States of the establishment of a blockade which is, if defined by the terms of the Order in Council, to include all the coasts and ports of Germany and every port of possible access to enemy territory. But the novel and quite unprecedented feature of that blockade, if we are to assume it to be properly so defined, is that it embraces many neutral ports and coasts, bars access to them, and subjects all neutral ships seeking to approach them to the same suspicion that would attach to them were they bound for the ports of the enemies of Great Britain, and to unusual risks and penalties.

It is manifest that such limitations, risks and liabilities placed upon the ships of a neutral power on the high seas, beyond the right of visit and search and the right to prevent the shipment of contraband already referred to, are a distinct invasion of the sovereign rights of the nation whose ships, trade, or commerce is interfered with.

The Government of the United States is of course not oblivious to the great changes which have occurred in the conditions and means of naval warfare since the rules hitherto governing legal blockade were formulated. It might be ready to admit that the old form of "close" blockade with its cordon of ships in the immediate offing of the blockaded ports is no longer practicable in face of an enemy possessing the means and opportunity to make an effective defence by the use of submarines, mines, and air craft; but it can hardly be maintained that, whatever form of effective blockade may be made use of, it is impossible to conform at least to the spirit and principles of the established rules of war. If the necessities of the case should seem to render it imperative that the cordon of blockading vessels be extended across the approaches to any neighboring neutral port or country, it would seem clear that it would still be easily practicable to comply with the well recognized and reasonable prohibition of international law against the blockading of neutral ports by according free admission and exit to all lawful traffic with neutral ports through the blockading cordon. This traffic would of course include all outward bound traffic from the neutral country and all inward bound traffic to the neutral country except contraband in transit to the enemy. Such procedure need not conflict in any respect with the rights of the belligerent maintaining the blockade since the right would remain with the blockading vessels to visit and search all ships either entering or leaving the neutral territory which they were in fact, but not of right, investing.

The Government of the United States notes that in the Order in Council His Majesty's Government give as their reason for entering upon a course of action which they are aware is without precedent

in modern warfare the necessity they conceive themselves to have been placed under to retaliate upon their enemies for measures of a similar nature which the latter have announced it their intention to adopt and which they have to some extent adopted; but the Government of the United States, recalling the principles upon which His Majesty's Government have hitherto been scrupulous to act, interprets this as merely a reason for certain extraordinary activities on the part of His Majesty's naval forces and not as an excuse for or prelude to any unlawful action. If the course pursued by the present enemies of Great Britain should prove to be in fact tainted by illegality and disregard of the principles of war sanctioned by enlightened nations, it cannot be supposed, and this Government does not for a moment suppose, that His Majesty's Government would wish the same taint to attach to their own actions or would cite such illegal acts as in any sense or degree a justification for similar practices on their part insofar as they affect neutral rights.

It is thus that the Government of the United States interprets the language of the note of His Majesty's Principal Secretary of State for Foreign Affairs which accompanies the copy of the Order in Council which was handed to the Ambassador of the United States near the Government in London and by him transmitted to Washington.

This Government notes with gratification that "wide discretion is afforded to the Prize Court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just, and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the Marshal of the Prize Court under the Order;" that "the effect of the Order in Council is to confer certain powers upon the executive officers of His Majesty's Government;" and that "the extent to which these powers will be actually exercised and the degree of severity with which the measures of blockade authorized will be put into operation are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities especially charged with the duty of dealing with individual ships and cargoes according to the merits of each case". This Government further notes with equal satisfaction the declaration of the British Government that "the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive committees concerned will impress upon them the duty of acting with the utmost despatch consistent with the object in view, and of showing in every case such consideration for neutrals as may be compatible with that object, which is, succinctly stated, to establish a blockade to prevent vessels from carrying goods for or coming from Germany."

In view of these assurances formally given to this Government, it is confidently expected that the extensive powers conferred by the Order in Council on the executive officers of the Crown will be restricted by "orders issued by the Government" directing the exercise of their discretionary powers in such a manner as to modify in practical application those provisions of the Order in Council which, if strictly enforced, would violate neutral rights and interrupt legitimate trade. Relying on the faithful performance of these voluntary assurances by His Majesty's Government the United States takes it for granted

that the approach of American merchantmen to neutral ports situated upon the long line of coast affected by the Order in Council will not be interfered with when it is known that they do not carry goods which are contraband of war or goods destined to or proceeding from ports within the belligerent territory affected.

The Government of the United States assumes with the greater confidence that His Majesty's Government will thus adjust their practice to the recognized rules of international law, because it is manifest that the British Government have adopted an extraordinary method of "stopping cargoes destined for or coming from the enemy's territory," which, owing to the existence of unusual conditions in modern warfare at sea, it will be difficult to restrict to the limits which have been heretofore required by the law of nations. Though the area of operations is confined to "European waters including the Mediterranean", so great an area of the high seas is covered and the cordon of ships is so distant from the territory affected that neutral vessels must necessarily pass through the blockading force in order to reach important neutral ports which Great Britain as a belligerent has not the legal right to blockade and which, therefore, it is presumed she has no intention of claiming to blockade. The Scandinavian and Danish ports, for example, are open to American trade. They are also free, so far as the actual enforcement of the Order in Council is concerned, to carry on trade with German Baltic ports, although it is an essential element of blockade that it bear with equal severity upon all neutrals.

This Government, therefore, infers that the commanders of His Majesty's ships of war engaged in maintaining the so-called blockade will be instructed to avoid an enforcement of the proposed measures of non-intercourse in such a way as to impose restrictions upon neutral trade more burdensome than those which have been regarded as inevitable when the ports of a belligerent are actually blockaded by the ships of its enemy.

The possibilities of serious interruption of American trade under the Order in Council are so many, and the methods proposed are so unusual and seem liable to constitute so great an impediment and embarrassment to neutral commerce that the Government of the United States, if the Order in Council is strictly enforced, apprehends many interferences with its legitimate trade which will impose upon His Majesty's Government heavy responsibilities for acts of the British authorities clearly subversive of the rights of neutral nations on the high seas. It is, therefore, expected that His Majesty's Government having considered these possibilities will take the steps necessary to avoid them, and, in the event that they should unhappily occur, will be prepared to make full reparation for every act, which under the rules of international law constitutes a violation of neutral rights.

As stated in its communication of October 22, 1914,⁹¹ "this Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States, irrespective of the provisions of the Declaration of London, and that this Government reserves to itself the right to enter a protest or demand

⁹¹ Document 26.

in each case in which those rights and duties so defined are violated, or their free exercise interfered with, by the authorities of the British Government."

In conclusion you will reiterate to His Majesty's Government that this statement of the views of the Government of the United States is made in the most friendly spirit, and in accordance with the uniform candor which has characterized the relations of the two governments in the past, and which has been in large measure the foundation of the peace and amity existing between the two nations without interruption for a century.

BRYAN

59

*Press Release Issued by the Department of State, March 31, 1915*⁹²

The State Department has from time to time received information directly or indirectly to the effect that belligerent nations had arranged with Banks in the United States for credits in various sums. While loans to belligerents have been disapproved, this Government has not felt that it was justified in interposing objection to the credit arrangements which have been brought to its attention. It has neither approved these nor disapproved—it has simply taken no action in the premises and expressed no opinion.

60

The Secretary of State to the Ambassador in Germany (Gerard)^{92a}

[Telegram]

WASHINGTON, *March 31, 1915—10 p.m.*

1446. You are instructed to present the following note to the German Foreign Office:

"Under instructions from my Government I have the honor to present a claim for \$228,059.54 with interest from January 28, 1915, against the German Government on behalf of the owners and captain of the American sailing vessel *William P. Frye* for damages suffered by them on account of the destruction of that vessel on the high seas by the German armed cruiser *Prinz Eitel Friedrich* on January 28, 1915.

The facts upon which this claim arises and by reason of which the German Government is held responsible by the Government of the United States for the attendant loss and damages are briefly as follows:

The *William P. Frye*, a steel sailing vessel of 3374 tons gross tonnage, owned by American citizens, and sailing under the United States flag and register, cleared from Seattle, Washington, Novem-

⁹² File No. 851.51/30; For. Rel., 1915, supp., p. 820.

^{92a} File No. 462.11Se8/6; For. Rel., 1915, supp., p. 357.

ber 4, 1914, under charter to M. H. Houser, of Portland, Oregon, bound for Queenstown, Falmouth or Plymouth for orders, with a cargo consisting solely of 186,950 bushels of wheat owned by the aforesaid Houser, and consigned "unto order or to its assigns," all of which appears from the ship's papers which were taken from the vessel at the time of her destruction by the Commander of the German Cruiser.

On January 27, 1915, the *Prinz Eitel Friedrich* encountered the *Frye* on the high seas; compelled her to stop; and sent on board an armed boarding party, who took possession. After an examination of the ship's papers the Commander of the Cruiser directed that the cargo be thrown overboard, but subsequently decided to destroy the vessel, and on the following morning, by his order, the *Frye* was sunk.

The claim of the owners and captain consists of the following items:

Value of ship, equipment and outfit	\$150,000.00
Actual freight as per freight list 5034 1000/2240 tons at 32/6—£8180/19/6 at \$4.86	39,759.54
Traveling and other expenses of Captain Kiehne and Arthur Sewall & Co., Agents of Ship, in connection with making affidavits, preparing and filing claim	500.
Personal effects of Captain H. H. Kiehne	300.
Damages covering loss due to deprivation of use of ship	37,500.00
Total-----	\$228,059.54

By direction of My Government, I have the honor to request that full reparation be made by the German Government for the destruction of the *William P. Frye* by the German cruiser *Prinz Eitel Friedrich*."

In presenting this note you will request that the claim be given prompt attention by the German Government. Inform Department as soon as you have delivered note.

BRYAN

61

The Counselor for the Department of State (Lansing) to the Secretary of State ^{92b}

WASHINGTON, April 2, 1915.

DEAR MR. SECRETARY: The case of the death of an American citizen through the sinking of the British S.S. *Falaba* ^{92c} presents a question

^{92b} File No. 462.11 T 41/14½.

^{92c} On Apr. 1, 1915, the following telegram had been received from the Ambassador in Great Britain (File No. 462.11 T 41/2; For. Rel., 1915, supp., p. 358):

"Leon Chester Thrasher, engineer, stated to be American citizen but unknown to Embassy, is reported missing, presumably drowned from British ship *Falaba* sunk March 28 in Irish Sea by German submarine."

which will have to be decided and the decision will determine our policy in this case and in the event other Americans meet death in the same way.

I assume that, if the sinking of the *Falaba* had been the result of an attempt of the vessel to resist or to escape when summoned to stop or to surrender by a German submarine, there would be no ground of complaint for the loss of an American life as a result of the submarine's frustrating such attempt.

In that case the submarine would be exercising a belligerent right recognized by international law.

But the sinking of the *Falaba*, when no attempt is made to resist or escape, without giving the crew and passengers adequate time to leave the vessel is a different matter. It is a practice unwarranted by international usage.

Now the question is this: Ought we not to hold the German Government responsible for the death of an American through the act of their naval forces, when that act is in violation of the established rules of naval warfare?

An American taking passage on a belligerent merchant vessel is entitled to rely upon an enemy's war vessel conforming to the established rules of visit and search and of protection of non-combatants. He should not be exposed to greater dangers than the enforcement of the rules impose. If this is a correct statement, duty would appear to require a complaint and a demand for damages.

On the other hand, to enter complaint on account of the death of an American in these circumstances would compel this Government to denounce the sinking of merchant vessels in the manner referred to as a flagrant violation of international law. In fact it would be a denunciation of the German "war zone" plan, or at least of the method of carrying it out.

While as yet we are not fully advised as to the facts of the case I think that the policy of the Government should be determined in order that we may act promptly if action seems advisable and necessary, as delay in entering complaint and denunciation would be, in my opinion, a matter of just criticism.

I would like to be advised as to the policy of the Government in order that preparations may be made to act in case it is decided to act.

Faithfully yours,

ROBERT LANSING

[Enclosure]

*Editorial from the "New York Herald", April 2, 1915*⁹³

In its note sent to Berlin on February 10 the United States gave full and fair notice to the German government of the course it would pursue in the event that vessels of the United States were attacked or American citizens were killed in the then threatened submarine warfare upon commerce against which this government entered its protest. The United States warned Germany of "the critical situation in respect of the relations between this country and Germany which might arise were the German naval forces in carrying out the policy foreshadowed in the Admiralty's proclamation to destroy any merchant vessel of the United States or cause the death of American citizens." Should such a deplorable situation arise, the United States would be constrained to hold Germany to "a strict accountability."

The "deplorable situation" so accurately forecasted has arisen. Mr. Leon C. Thrasher, an American citizen, was a passenger on the merchant steamship *Falaba*, which was torpedoed by a German submarine. It now seems to be clearly established that Mr. Thrasher was one of the more than one hundred persons who were sent to death by a German torpedo—ruthlessly slaughtered by orders of the German Admiralty. This American citizen and the other victims of this cold blooded murder of innocents were given no opportunity to escape, were accorded none of the "rights on the high seas" universally recognized as belonging to non-combatants, and especially to citizens of neutral countries.

What is the government of the United States going to do about it?

62

The Secretary of State to the President^{93a}

WASHINGTON, April 2, 1915.

MY DEAR MR. PRESIDENT: I am enclosing a memorandum^{93b} by Mr. Lansing in regard to the Thrasher case. The matter has been reported to us by Page and Consul-General Skinner but we have not yet the details. It may be worth while to be considering the matter in advance.

⁹³ The following note in Mr. Lansing's hand appears on the original of his letter of Apr. 2: "This editorial from the *N. Y. Herald* of today came to my attention after this letter was written. I believe that it indicates the attitude of many other newspapers. RL"

^{93a} File No. 462.11 T 41/14½.

^{93b} Document 61.

It seems to me that the doctrine of contributory negligence has some bearing on this case—that is, the American who takes passage upon a British vessel knowing that this method of warfare will be employed, stands in a different position from that occupied by one who suffers without any fault of his own.

The first question raised is, What kind of a demand shall we make, if we make a demand? We can hardly insist that the presence of an American on a British ship shall operate to prevent attack unless we are prepared to condemn the methods employed as improper in warfare.

If we are to make a demand, shall we recognize the warfare as proper and ask indemnity for the loss of life? Can an American, by embarking upon a ship of the allies at such a time and under such conditions impose upon his Government an obligation to secure indemnity in case he suffers with others on the ship? I confess I have not yet been able to reach a conclusion which is entirely satisfactory to me, but I send this memorandum that you may revolve it in your mind as the question will probably arise.

With assurances [etc.]

W. J. BRYAN

63

*The President to the Secretary of State*⁹⁴

WASHINGTON, 3 April, 1915.

MY DEAR MR. SECRETARY: I do not like this case. It is full of disturbing possibilities.

But it is clear to me that this American citizen came to his death by reason of acts on the part of German naval officers which were in unquestionable violation of the just rules of international law with regard to unarmed vessels at sea; and it is probably our duty to make it clear to the German Government that we will insist that the lives of our citizens shall not be put in danger by acts which have no sanction whatever in the accepted law of nations.

I think it would be wise for Mr. Lansing to draw a brief and succinct note in the matter for mature consideration, so that we may formulate our position in precise terms.

Faithfully Yours,

W. W.

⁹⁴ File No. 462.11 T 41/15½.

64

The Secretary of State to the President^{94a}

WASHINGTON, April 3, 1915.

MY DEAR MR. PRESIDENT: I am sending you a memorandum made by Mr. Lansing sometime ago. We have been holding it but in view of the complication that may arise from the *Pisa* case I bring his suggestions before you.

With assurances [etc.]

W. J. BRYAN

[Enclosure 1]

The Counselor for the Department of State (Lansing) to the Secretary of State

WASHINGTON, April 2, 1915.

DEAR MR. SECRETARY: The enclosed memorandum prepared six weeks ago you may think worthy of consideration in connection with the letter I am sending you to-day regarding the death of Leon C. Thrasher through the sinking of the British S. S. *Falaba* by a German submarine.

Since writing the memorandum I have been informed through different channels that German public opinion takes a very similar view of the situation.

Faithfully yours,

ROBERT LANSING

[Enclosure 2]

Memorandum by the Counselor for the Department of State (Lansing)

WASHINGTON, February 15, 1915.

RELATIONS WITH GERMANY AND POSSIBILITIES

Present situation

No commerce with Germany in any articles of contraband, except a negligible amount smuggled through neutral ports.

Free commerce with Allies in all munitions of war and supplies.

There are interned German vessels in ports of the United States, valued at approximately 100 millions of dollars.

^{94a} File No. 462.11 T 41/12½.

Possible situation in case of war between United States and Germany

Commercial situation would not be changed so far as Germany is concerned, except that German naval forces would have greater right to interrupt trade with Allies.

The United States could not send an army to Europe, hence no increased military strength to Germany's enemies on land.

The British Navy being already superior to that of Germany, the addition of the naval force of the United States would have no effect on the situation at sea.

There might be created a state of civil discord, and possibly of civil strife, in the United States, which would cause this Government to retain for its own use the munitions and supplies now being sent in great quantities to the Allies.

The interned German vessels would be seized by the United States.

Advantages and Disadvantages to Germany of War with United States

The Advantages would seem to be—

A free hand in interruption of United States trade with the Allies.

A possible situation in the United States which would lessen exports to Allies.

No change in military or naval situation.

The Disadvantages would seem to be—

Cessation of influence by United States upon Great Britain to allow Germany to receive food from United States.

Cessation of all trade in non-contraband with United States.

Loss of small amount of contraband smuggled into Germany from United States through neutral ports.

The loss of about 100 millions of dollars of capital tied up in interned ships, which is now inactive and useless.

The Advantages appear to outweigh the Disadvantages.

ROBERT LANSING

The President to the Secretary of State ^{94b}

WASHINGTON, 5 April, 1915.

MY DEAR MR. SECRETARY: I had already seen this memorandum of Mr. Lansing's. ^{94c} I appreciate its force to the full. But it ought

^{94b} File No. 462.11 T 41/13½.

^{94c} *Supra*.

not to alter our course so long as we think ourselves on the firm ground of right.

It has, as Mr. Lansing points out, its bearings on the Thrasher case. That case, as I said the other day, troubles me. I should very much like to know what Mr. L's view of it is. We must compound policy with legal right in wise proportions, no doubt.

Faithfully Yours,

W. W.

66

*The Counselor for the Department of State (Lansing) to the Secretary of State*⁹⁵

WASHINGTON, April 5, 1915.

DEAR MR. SECRETARY: In compliance with the President's note to you of the 3rd,^{95a} I have drafted a memorandum for an instruction to Ambassador Gerard in the Thrasher case.

The tone of the instruction is not conciliatory, and the language is plain almost to harshness. Probably it can be softened without weakening it.

I feel this: If it is decided to denounce the sinking of the *Falaba* as an act indefensible legally and morally, we will have to say so, and I do not see how we can say it in a pleasant way. We are dealing with a tragedy. It seems to me that we must assert our rights, condemn the violation and state the remedy which we expect. If we do this without evincing a firm determination to insist on compliance, the German Government will give little heed to the note and may even show contempt for its weakness.

Furthermore, American public opinion will never stand for a colorless or timid presentation of a case, in which an American has been killed by an atrocious act of lawlessness.

If the note is weak or uncertain, it had better not be sent. The situation does not seem to me to be one for compromise. We can not take the position that Thrasher should have kept out of the war zone. To do so would amount to an admission of Germany's right to perform lawless acts in that area. This would unquestionably arouse a storm of criticism, and I think that it would be justified.

On the other hand, the consequences of a strong, vigorous note may be most momentous.

In spite of the critical situation which may result I do not see how we can let the matter pass without protest.

⁹⁵ File No. 462.11 T 41/17½.

^{95a} Document 64.

As I said to you, I think that this case is pregnant with more sinister possibilities than any with which the Government has had to deal. After mature consideration from various points of view, I can not advise against a firm demand, and yet I feel the gravest anxiety as to the results of such a course. It by no means means war, but it means intense hostility and the charge of open support of the enemies of Germany.

Faithfully yours,

[ROBERT LANSING]

[Enclosure]

Draft Instruction to the Ambassador in Germany (Gerard)^{95D}

WASHINGTON, April 5, 1915.

THRASHER CASE

The Government of the United States has received a report, confirmed by substantial evidence, that Leon C. Thrasher, a native born American citizen, came to his death by reason of the act of the German naval authorities in sinking the British passenger steamer *Falaba* on the high seas on the 28th of March, 1915, out ward bound from Liverpool, and the failure of the commander of the German submarine *U-28* to give ample time for the crew and passengers of the *Falaba* to leave the vessel before sinking her by means of torpedoes. It is further reported that, at the time when the *Falaba* was torpedoed and sunk, she was lying to, making no attempt to escape and offering no resistance.

The circumstances of the sinking of the *Falaba*, by which Thrasher with scores of other non-combatants, irrespective of age and sex, met their death, indicate a wantonness and indifference to the rules of civilized warfare by the German naval officer responsible for the deed, which are without palliation or excuse. This is aggravated by the fact that the vessel was departing from and not approaching British territory. So flagrant a violation of international law and international morality requires from a neutral government, whose citizen has been a victim of the outrage, an unequivocal expression of its views as to such conduct and as to the duty of the belligerent government, whose officers are guilty of the violation.

The Government of the United States considers that a United States citizen is entitled to rely upon the practice, heretofore uni-

^{95D} File No. 462.11 T 41/16½.
Not sent.

versally observed by belligerent warships, of visiting and searching merchant vessels of enemy as well as of neutral nationality and of protecting the lives of their crews and passengers whatever disposition may be made of the vessels and their cargoes. No notice by a belligerent government that it intends to depart from this practice within a certain area of the high seas can deprive justly a neutral of his rights or relieve the government disregarding those rights from full responsibility for the acts of its naval authorities performed in accordance with such notice.

The Government of the United States is loth to believe that the German Imperial Government authorized, much less directed, the officers of the Imperial Navy to perpetrate acts as ruthless and brutal as the sinking of the *Falaba* before her helpless crew and passengers had been removed, or that that Government will pass over the offense without condemnation and permit the offenders to remain unpunished.

The Government of the United States, in view of the death of a United States citizen through the wanton act of an officer of the German Imperial Navy, which was in direct violation of the principles of humanity as well as of the law of nations, appeals earnestly to the Imperial Government to disavow the act, to punish the perpetrator, and to make just reparation for the death of Leon C. Thrasher.

It is with extreme reluctance and with a full appreciation of the exceptional conditions, in which Germany is placed in the present war, that the Government of the United States makes these representations and presents this appeal to the justice and humanity of the Imperial Government. This Government owes a duty to itself, to its citizens, and to civilization, which is imperative and which it cannot as a sovereign power ignore. No other course, consonant with its dignity, is open to it. Were the rights at stake those which relate to property, it might continue to show that patience and forbearance which it has manifested so often during the progress of this deplorable conflict, but when a United States citizen is killed through an act of lawlessness and cruelty, committed under the orders of a commissioned officer of the German Imperial Navy, and other citizens are threatened with a like fate if they continue to exercise their just rights, this Government can not remain silent. It sincerely hopes that the Imperial Government, recognizing the justice of these representations, will promptly disavow the act complained of and take the steps necessary to prevent its repetition.

The Counselor for the Department of State (Lansing) to the Secretary of State^{95c}

WASHINGTON, April 7, 1915.

DEAR MR. SECRETARY: The great importance of the Thrasher case, to my mind, lies in the fact that a course of action must be adopted, which can be consistently applied to similar cases, if they should arise in the future. For example, suppose another British vessel should be sunk in the same way as the *Falaba* and ten Americans on board the vessel should be drowned. What would be done in that case? Or suppose a neutral vessel with Americans on board should be torpedoed and the Americans drowned. What then would be done? It seems to me that, for the sake of the future, we cannot afford to allow expediency or avoidance of the issue to control our action in the Thrasher case.

Either one of two courses seems to be open:

1. To warn Americans generally to keep out of the German war zone, if on board a merchant vessel, which is not of American nationality.
2. To hold Germany to a strict accountability for every American life lost by submarine attack on the high seas.

The adoption of the first course amounts to an admission of the legality of establishing a war zone, such as Germany has done, or at least to an admission that the illegality is open to question.

The adoption of the second course would be more nearly in accord with our position denying the legality of the war zone and holding Germany responsible for indiscriminate attack within that area of the high seas.

Expediency in the particular case of Thrasher would favor the adoption of a policy resulting in the first course suggested, but the dignity of the Government and its duty toward its citizens appears to demand a policy in harmony with the second course.

The difficulty with the second course is chiefly that our relations with the German Government are becoming increasingly strained, as shown by the questions pending, namely:

1. The Thrasher case.
2. The *Pisa* case.
3. The *Odenwald* case.
4. The Pinchot affair.
5. The *Prinz Eitel Friedrich* case.
6. The arrest of the German Consul at Seattle.

^{95c} File No. 462.11 T 41/20½.

7. The withdrawal of our military observers from Germany.
8. The demand for an embargo on arms and ammunition.

If any other course can be found, which will relieve the present tension in our relations, and at the same time preserve American rights, so that in the future this Government will not be charged with indifference to the death of Americans, or with a failure to do its duty in supporting its rights, I would strongly favor such a course. I have given careful thought to the subject, but am unable to offer any suggestion which will meet these conditions.

Faithfully yours,

ROBERT LANSING

68

*The Secretary of State to the German Ambassador (Bernstorff)*⁹⁰

No. 1379

WASHINGTON, April 21, 1915.

EXCELLENCY: I have given thoughtful consideration to Your Excellency's note of the 4th of April, 1915, enclosing a memorandum of the same date, in which Your Excellency discusses the action of this Government with regard to trade between the United States and Germany, and the attitude of this Government with regard to the exportation of arms from the United States to the nations now at war with Germany.

I must admit that I am somewhat at a loss how to interpret Your Excellency's treatment of these matters. There are many circumstances connected with these important subjects to which I would have expected Your Excellency to advert but of which you make no mention, and there are other circumstances to which you do refer which I would have supposed to be hardly appropriate for discussion between the Government of the United States and the Government of Germany.

I shall take the liberty, therefore, of regarding Your Excellency's references to the course pursued by the Government of the United States with regard to interferences with trade from this country such as the Government of Great Britain have attempted, as intended merely to illustrate more fully the situation to which you desire to call our attention, and not as an invitation to discuss that course. Your Excellency's long experience in international affairs will have suggested to you that the relations of the two Governments with one another cannot wisely be made a subject of discussion with a third government, which cannot be fully informed as to the facts, and which cannot be fully cognizant of the reasons for the course

⁹⁰ File No. 763.72111/1930; For. Rel., 1915, supp., p. 160.

pursued. I believe, however, that I am justified in assuming that what you desire to call forth is a frank statement of the position of this Government in regard to its obligations as a neutral power. The general attitude and course of policy of this Government in the maintenance of its neutrality I am particularly anxious that Your Excellency should see in their true light. I had hoped that this Government's position in these respects had been made abundantly clear, but I am of course perfectly willing to state it again. This seems to me the more necessary and desirable because, I regret to say, the language which Your Excellency employs in your memorandum is susceptible of being construed as impugning the good faith of the United States in the performance of its duties as a neutral. I take it for granted that no such implication was intended, but it is so evident that Your Excellency is laboring under certain false impressions that I cannot be too explicit in setting forth the facts as they are, when fully reviewed and comprehended.

In the first place, this Government has at no time and in no manner yielded any one of its rights as a neutral to any one of the present belligerents. It has acknowledged, as a matter of course, the right of visit and search and the right to apply the rules of contraband of war to articles of commerce. It has, indeed, insisted upon the use of visit and search as an absolutely necessary safeguard against mistaking neutral vessels for vessels owned by an enemy and against mistaking legal cargoes for illegal. It has admitted also the right of blockade if actually exercised and effectively maintained. These are merely the well known limitations which war places upon neutral commerce on the high seas. But nothing beyond these has it conceded. I call Your Excellency's attention to this notwithstanding it is already known to all the world as a consequence of the publication of our correspondence in regard to these matters with several of the belligerent nations because I cannot assume that you have official cognizance of it.

In the second place, this Government attempted to secure from the German and British Governments mutual concessions with regard to the measures those Governments respectively adopted for the interruption of trade on the high seas. This it did, not of right, but merely as exercising the privileges of a sincere friend of both parties and as indicating its impartial good will. The attempt was unsuccessful; but I regret that Your Excellency did not deem it worthy of mention in modification of the impressions you expressed. We had hoped that this act on our part had shown our spirit in these times of distressing war as our diplomatic correspondence had shown our steadfast refusal to acknowledge the right of any belligerent to alter the accepted rules of war at sea insofar as they affect the rights and interests of neutrals.

In the third place, I note with sincere regret that, in discussing the sale and exportation of arms by citizens of the United States to the enemies of Germany, Your Excellency seems to be under the impression that it was within the choice of the Government of the United States, notwithstanding its professed neutrality and its diligent efforts to maintain it in other particulars, to inhibit this trade, and that its failure to do so manifested an unfair attitude towards Germany. This Government holds, as I believe Your Excellency is aware, and as it is constrained to hold in view of the present indisputable doctrines of accepted international law, that any change in its own laws of neutrality during the progress of a war which would affect unequally the relations of the United States with the nations at war would be an unjustifiable departure from the principle of strict neutrality by which it has consistently sought to direct its actions, and I respectfully submit that none of the circumstances urged in Your Excellency's memorandum alters the principle involved. The placing of an embargo on the trade in arms at the present time would constitute such a change and be a direct violation of the neutrality of the United States. It will, I feel assured, be clear to Your Excellency that, holding this view and considering itself in honor bound by it, it is out of the question for this Government to consider such a course.

I hope that Your Excellency will realize the spirit in which I am drafting this reply. The friendship between the people of the United States and the people of Germany is so warm and of such long standing, the ties which bind them to one another in amity are so many and so strong, that this Government feels under a special compulsion to speak with perfect frankness when any occasion arises which seems likely to create any misunderstanding, however slight or temporary, between those who represent the Governments of the two countries. It will be a matter of gratification to me if I have removed from Your Excellency's mind any misapprehension you may have been under regarding either the policy or the spirit and purposes of the Government of the United States. Its neutrality is founded upon the firm basis of conscience and good will.

Accept [etc.]

W. J. BRYAN

69

The President to the Secretary of State^{96a}

WASHINGTON, 22 April, 1915.

MY DEAR MR. SECRETARY: Although I have been silent for a long time about the case,^{96b} I have had it much in my mind, as I

^{96a} File No. 462.11 T. 41/21½.

^{96b} See document 67.

have no doubt you have, to work out some practicable course of action with regard to the death of Thrasher; and I have the following to suggest as the outline of a note to the German Government:

(1) State the circumstances, as we have officially received them.

(2) We take it for granted that Germany has had no idea of changing the rules (or, rather, the essential principles) of international law with regard to the safety of non-combatants and of the citizens of neutral countries at sea, however radical the present change in practical conditions of warfare; and that she will, in accordance with her usual frankness in such matters, acknowledge her responsibility in the present instance.

(3) Raise in a very earnest, though of course entirely friendly, way the whole question of the use of submarines against merchant vessels, calling attention circumstantially to the impossibility of observing the safeguards and precautions so long and so clearly recognized as imperative in such matters: the duty of visit and search; the duty, if the vessel proves to belong to an enemy and cannot be put in charge of a prize crew, to secure the safety of the lives of those on board; etc.

(4) On these grounds enter a very moderately worded but none the less solemn and emphatic protest against the whole thing, as contrary to laws based, not on mere interest or convenience, but on humanity, fair play, and a necessary respect for the rights of neutrals.

My idea, as you will see, is to put the whole note on very high grounds,—not on the loss of this single man's life, but on the interests of mankind which are involved and which Germany has always stood for; on the manifest impropriety of a single nation's essaying to alter the understandings of nations; and as all arising out of her mistake in employing an instrument against her enemy's commerce which it is impossible to employ in that use in accordance with any rules that the world is likely to be willing to accept.

Faithfully Yours,

WOODROW WILSON

70

The Secretary of State to Mr. Alvin Untermeyer^{90c}

WASHINGTON, April 24, 1915.

SIR: The Department acknowledges the receipt of your letter of the 25th ultimo in which, in further relation to your desire to be advised whether the Declaration of London constituted "at the time of the commencement of the recent conflict in Europe a binding treaty or agreement between Great Britain and the United States", you inquire (1) "Does our government recognize as valid the declara-

^{90c} File No. 763.72112/862; For. Rel., 1915, supp. p. 183.

tion by Great Britain of copper as *absolute* contraband, and (2) Must my client, before shipping the copper referred to, determine at his peril that it is not intended for re-export from Norway to Germany—in other words, is my client obligated to prove that the copper is not intended for re-export, or is Great Britain obligated to prove that it is intended for re-export in order to justify a seizure or condemnation?"

After giving the matter careful consideration the Department has decided that it is not in a position to make any objection to the classification of copper by the British Government as absolute contraband.

The British Government adheres to the so-called "doctrine of continuous voyages" laid down by the American courts during the Civil War; that is, they regard as subject to condemnation shipments of articles classed as contraband if such articles are destined ultimately for delivery in belligerent territory even though they may, in the first instance, be shipped from a neutral port to a neutral port or landing. With reference to this matter the Department may refer you to Moore's *International Law Digest*, Vol. 7, page 697, *et seq.*, and Oppenheim, *International Law*, 2d Ed., Vol. 2, page 500, *et seq.*

That portion of your second inquiry concerning the proof of destination of goods appears to relate to matters of procedure before Prize Courts in relation to which it is not within the province of the Department to advise you. As of possible bearing on your inquiry, the Department may refer you to the copy of the British Order in Council of October 29th last, which was sent to you with the Department's letter of March 16th last.

The Department regrets that through inadvertence a reply to your letter has been delayed.

I am [etc.]

For the Secretary of State:

JOHN E. OSBORNE

Assistant Secretary

71

*The Secretary of State to the Ambassador in Germany (Gerard)*⁹⁷

[Telegram]

WASHINGTON, April 28, 1915—4 p.m.

1583. You are instructed to present the following note to the German Foreign Office:

"In reply to Your Excellency's note of the 5th [4th] instant, which the Government of the United States understands admits the

⁹⁷ File No. 462.11Se8/16; For. Rel., 1915, supp., p. 376.

liability of the Imperial German Government for the damages resulting from the sinking of the American sailing vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich* on January 28th last, I have the honor to say, by direction of my Government, that while the promptness with which the Imperial German Government has admitted its liability is highly appreciated, my Government feels that it would be inappropriate in the circumstances of this case, and would involve unnecessary delay to adopt the suggestion in your note that the legality of the capture and destruction, the standing of the claimants, and the amount of indemnity should be submitted to a prize court.

Unquestionably the destruction of this vessel was a violation of the obligations imposed upon the Imperial German Government under existing treaty stipulations between the United States and Prussia, and the United States Government, by virtue of its treaty rights, has presented to the Imperial German Government a claim for indemnity on account of the resulting damages suffered by American citizens. The liability of the Imperial German Government, and the standing of the claimants as American citizens, and the amount of indemnity are all questions which lend themselves to diplomatic negotiation between the two Governments, and happily the question of liability has already been settled in that way. The status of the claimants and the amount of the indemnity are the only questions remaining to be settled, and it is appropriate that they should be dealt with in the same way.

The Government of the United States fully understands that, as stated in Your Excellency's note, the German Government is liable under the treaty provisions above mentioned for the damages arising from the destruction of the cargo as well as from the destruction of the vessel. But it will be observed that the claim under discussion does not include damages for the destruction of the cargo, and the question of the value of the cargo therefore is not involved in the present discussion.

The Government of the United States recognizes that the German Government will wish to be satisfied as to the American ownership of the vessel, and the amount of the damages sustained in consequence of her destruction.

These matters are readily ascertainable, and if the German Government desires any further evidence in substantiation of the claim on these points in addition to that furnished by the ship's papers, which are already in the possession of the German Government, any additional evidence found necessary will be produced. In that case, however, inasmuch as any evidence which the German Government may wish to have produced is more accessible and can more conveniently be examined in the United States than elsewhere, on account of the presence there of the owners and captain of the *William P. Frye* and their documentary records, and other possible witnesses, the Government of the United States ventures to suggest the advisability of transferring the negotiations for the settlement of these points to the Imperial German Embassy at Washington.

In view of the admission of liability by reason of specific treaty stipulations, it has become unnecessary to enter into a discussion

of the meaning and effect of the Declaration of London, which is given some prominence in your Excellency's note of April 5th [4th], further than to say that, as the German Government has already been advised, the Government of the United States does not regard the Declaration of London as in force."

Arrange for simultaneous publication May 1st if possible.
Report.

BRYAN

72

The Counselor for the Department of State (Lansing) to the Secretary of State^{97a}

WASHINGTON, May 1, 1915.

DEAR MR. SECRETARY: Two events have occurred which bear upon the Thrasher case and which should be called particularly to the attention of yourself and the President in connection with that case and the policy which should be adopted.

The first of these is the attack April 29th by a German aeroplane on the American S.S. *Cushing*, which is reported by Dr. Van Dyke in a telegram dated April 30th, a copy of which is enclosed.^{97b}

The second is the publication this morning in some fifty newspapers of a notice to American citizens not to take passage on British vessels which will traverse the German "war zone." The notice, a copy of which is enclosed, is signed by the Imperial German Embassy, and, as I am informed was a paid advertisement prepared about a week ago by that Embassy.

While no lives were lost by the attack on the *Cushing*, one bomb is reported to have struck the vessel and caused considerable damage. It is, therefore, not so serious in one sense as the attack on the *Falaba* which caused the death of Thrasher. On the other hand, it is a more flagrant violation of neutral rights on the high seas, and indicates that the German naval policy is one of wanton and indiscriminate destruction of vessels regardless of nationality. The fortunate outcome of this attack in no way removes the grave possibilities which may result from future attacks of the same character.

The question arises, therefore, what course should be pursued by this Government. Should we make representations in this case before we do in the Thrasher case? And, if we do, will it not appear that we care less for an American life than we do an American ship? I fear that this course would arouse a great deal of criticism, and might be interpreted as an admission that an American citizen had no right to take passage on a British vessel. Such an admission

^{97a} File No. 462.11 T 41/23½.

^{97b} Not printed.

would appear to me to be a serious mistake. An American citizen legally has such a right and in my opinion the Government ought to uphold it.

The published notice of the German Embassy has an even more direct bearing on the Thrasher case. It is a formal threat that American citizens, exercising their just rights on the high seas will not be protected from the intended attack on all British ships without visiting them or giving the persons on board ample opportunity to escape.

If we do not take up the Thrasher case, in what position are we placed in the event other American passengers lose their lives? Will not the answer be that we acquiesced by our silence in the propriety of the sinking of the *Falaba*, and that Americans were publicly warned of the danger, and that, therefore, Germany is not to be blamed?

Another thing, the using of the American press to warn Americans not to exercise their legal rights, for a violation of which this Government has said that it would hold Germany to "a strict accountability" seems to me to be highly improper. It is an even more insolent proceeding than the making public of diplomatic correspondence. Communications of this sort should be sent to the Department, which can make the contents public if it pleases, but not to address the Department at all is an impertinent act, which would warrant summary action if it was expedient.

In this case, however, it would seem to me unwise to act, as I believe that would be playing into Count von Bernstorff's hands. I cannot but feel that these two events are in line with Germany's attitude toward the United States, to which I directed attention in my memorandum of February 15th. Everything seems to point to a determined effort to affront this Government and force it to an open rupture of diplomatic relations. I hope that I am wrong, but I have that feeling.

For the present, however, the question is how do these events affect the Thrasher case. Do they compel action, or is it wise to continue silent?

Faithfully yours,

ROBERT LANSING

[Enclosure]

Article from the "New York Sun", May 1, 1915 ^{97c}

The German Embassy has begun a campaign to head off American travel to Europe during the coming summer.

^{97c} File No. 462.11 T 41/22½.

The first step in this campaign was taken yesterday, when the Embassy caused to be inserted in a number of newspapers throughout the country an advertisement, of which the following is a copy:

"Travellers intending to embark on the Atlantic voyage are reminded that a state of war exists between Germany and her Allies and Great Britain and her Allies; that the zone of war includes the waters adjacent to the British Isles; that in accordance with formal notice given by the Imperial Government, vessels flying the flag of Great Britain or any of her Allies, are liable to destruction in those waters and that travellers sailing in the war zone on ships of Great Britain or her Allies do so at their own risk.

IMPERIAL GERMAN EMBASSY,
Washington, D. C., April 22, 1915."

73

*The Counselor for the Department of State (Lansing) to the Secretary of State*⁹⁸

WASHINGTON, May 3, 1915.

DEAR MR. SECRETARY: In view of the aerial attack on the American S.S. *Cushing* and of the reported torpedoing of the S.S. *Gulflight*, of which no official confirmation has yet been received, I think it should be considered whether the draft instruction to Ambassador Gerard regarding the death of Leon C. Thrasher through the sinking of the British S.S. *Falaba* should be sent.

The death of Thrasher loses much of its importance in comparison with these two attacks on American vessels if it is true that three of the crew of the *Gulflight* lost their lives by reason of the vessel's being torpedoed.

If these attacks are confirmed officially, I can not see how this Government can avoid making a vigorous protest; a mere appeal or a deferential complaint will, in my opinion, neither satisfy the American people nor be in accord with the duty of the Government or with the rights of the United States.

The course pursued by the Germans seems to be based on a policy intended to provoke radical action by this Government, which will result in the severance of diplomatic relations. I may be wrong and I most sincerely hope so, but recent events appear to tend strongly in support of that view.

It may be deemed advisable to proceed with the Thrasher case separately. If so, the instruction should be sent without delay, provided it is sent at all, so that it could go out before official reports are received on the facts of the other two cases.

⁹⁸ File No. 462.11 T 41/24½.

Another course would be to treat all three cases in one instruction. While the draft instruction in the Thrasher case might be taken as a basis for a new instruction covering the three cases, it would require very considerable amendment, and would have to be put in stronger and less conciliatory language.

I need not say to you, Mr. Secretary, that I believe the situation is critical and one to cause the gravest anxiety. We are being forced near to the breaking point in our relations with Germany; and I am thoroughly convinced that it is being done wilfully through a misconception of the result here in the United States.

Faithfully yours,

ROBERT LANSING

74

The Counselor for the Department of State (Lansing) to the Secretary of State^{98a}

WASHINGTON, May 5, 1915.

DEAR MR. SECRETARY: I have been reading over the annexed instruction to Ambassador Gerard of February 10th^{98b} to determine how far a course of action was declared by that document in case of submarine attack.

The important statements are contained in the three paragraphs at the top of page 2^{98c} which I have underscored in red ink and the key words I have made "black-faced." They are "indefensible violation," "strict accountability" and "steps . . .^{98d} necessary . . .^{98d} to safeguard."

The term "indefensible violation" eliminates in my opinion any argument as to the justification of the German naval or aerial authorities for their action in attacking American vessels without warning. It leaves no room for debate, but is an assertion that the act constitutes an international crime.

"Strict accountability" can only mean that the German Government must make full reparation for the act of their naval force and must also repudiate the act, apologize for it and give ample assurance that it will not be repeated.

"Steps . . .^{98d} necessary . . .^{98d} to safeguard" can have no other meaning than to protect American lives and property by force unless the German Government guarantee that American lives and property will not be molested on the high seas.

In view of these declarations, which are substantially unqualified, a representation covering the attacks on the *Cushing* and the *Gul-*

^{98a} File No. 763.72/1434.

^{98b} Document 49.

^{98c} The last three paragraphs, p. 268.

^{98d} Omission indicated on file copy of this document.

flight would leave little opportunity to discuss the subject of submarine or aeroplane activities in the "war zone." Those cases would seem to require brief and positive protests and demands based on the declarations of February 10th.

In the Thrasher case the circumstances are different. There is room for argument and a discussion of the use of submarines would be appropriate since it is open to question whether the declarations apply to that particular case.

I suggest, therefore, the advisability of acting in the Thrasher case before the full reports are received in the other cases, so that a more moderate and less rigid representation may be made before action is taken in the other cases, which, if the reported facts are confirmed, leave little opportunity for a conciliatory note, unless we recede from our former statements, a course which I assume will not be done.

Faithfully yours,

ROBERT LANSING

75

*The Assistant Secretary of the Treasury (Peters) to the Counselor for the Department of State (Lansing)*⁹⁹

WASHINGTON, May 8, 1915.

DEAR MR. LANSING: In response to Mr. Woolsey's request on the telephone this morning, that I obtain certain information from the Collector at New York in regard to the Cunard Liner *Lusitania*,^{99a} I beg to report as follows:—

1. Whether she had any contraband or ammunition on board at the time she sailed from New York:

Practically all of her cargo was contraband of some kind.

2. The character or nature of such contraband and munitions:

Her cargo included:^{99b}

Cotton goods, 32 cases
Raw furs, 313 cases
Sheet brass, 260,000 lbs.
Copper ingots and base, 111,000 lbs.
Insulated copper wire, 58,000 lbs.
Cheese, 217,000 lbs.
Beef, 342,000 lbs.
Butter, 43,000 lbs.

⁹⁹ File No. 841.857 L 97/87.

^{99a} Sunk by a German submarine off the coast of Ireland, May 7, 1915. Of the 197 American citizens aboard the *Lusitania*, 128 were killed (File No. 462.60 L 97/16; S. Doc. 176, 67th Cong., 2d sess.)

^{99b} A comparison with the summary of the manifest included with the report of June 4, 1915, of the Collector of the Port of New York, document 96, indicates variations in some of the items listed here.

Lard, 40,000 lbs.

Bacon, 85,000 lbs.

31 packages of hardware, aluminum, brass, iron, old rubber

1271 packages ammunition consigned by Bethlehem Steel Co., consisting of

6 cases of fuses

12 " " "

1250 " " shrapnel

8 packages of motor cycles and parts

89 pieces of leather

4200 cases of metallic packages [*cartridges*] shipped by Remington Arms Company.

185 cases accoutrements

3. Whether the vessel had any guns mounted on board:

Neutrality men were on board every day. No guns at any time found mounted, nor, so far as they knew, on board.

4. And whether she had any ammunition for the same, and its character:

Answered above.

Yours sincerely,

A. J. PETERS

76

*The Ambassador in Great Britain (Page) to the Secretary of State*¹

[Telegram]

LONDON, May 8, 1915—5 p.m.

[Received 10.30 p.m.]

2068. As nearly as I can interpret public opinion here as affected by the sinking of the *Lusitania*, it is as follows, which I transmit for your information:

A profound effect has been produced on English opinion in general regarding both the surprising efficiency of the German submarine work and the extreme recklessness of the Germans. The sinking of the *Lusitania*, following the use of poisonous gas and the poisoning of wells and the torpedoing of the *Gulflight* and other plainly marked neutral ships the English regard as the complete abandonment of war regulations and of humanity in its conduct as well as of any consideration for neutrals. Sir Edward Grey said to me last night "They are running amuck." It is war under the black flag. Indignation in the aggregate reached a new pitch.

Official comment is of course reticent. The freely expressed unofficial feeling is that the United States must declare war or forfeit European respect. So far as I know this opinion is universal. If the United States come in, the moral and physical effect will be to bring peace quickly and to give the United States a great influence

¹ File No. 763.72/2541; For. Rel., 1915, supp., p. 385.

in ending the war and in so reorganizing the world as to prevent its recurrence. If the United States submits to German disregard of her citizens' lives and of her property and of her neutral rights on the sea, the United States will have no voice or influence in settling the war nor in what follows for a long time to come. This, so far as I can ascertain, is the practically unanimous opinion here. The Americans in London are outspoken to the same effect.

Much the profoundest depression is felt today that has been felt since the war began and British opinion is stirred to its depths.

The foreign editor of the *Times*, a usually well-informed and trustworthy man, who knows all the principal European statesmen, is just returned from a week in France. He tells me in strictest confidence that England, France and Russia made a bargain with Italy on April 30th, agreeing to cede to Italy very large parts of Austrian territory, some of which has a Slavic population, if Italy comes into the war within a month.² This was done without consulting Servia and against her wishes. Italy will soon come in if she keeps her agreement, to be followed by Roumania. I have heard unofficial confirmation of this agreement here.

The same editor informs me that General Joffre told him that he is confident that he would break through the German lines within a month.

I have heard the opinion expressed today in several well-informed but unofficial quarters that warlike action by the United States would be a signal for other neutral nations whose rights Germany has disregarded especially the Scandinavian countries and possibly Holland. For the correctness of this view I cannot vouch but I know it is widely entertained.

AMERICAN AMBASSADOR

77

*The Counselor for the Department of State (Lansing) to the
Secretary of State*³

[WASHINGTON,] May 9, 1915.

DEAR MR. SECRETARY: I have been thinking over your suggestion that it might be considered that Americans, taking passage in a British vessel bound for a British port and passing through the German "war zone," did so, in a measure at least, at their own peril and, therefore, were not entitled to the full protection of this Government.

² Treaty of Apr. 26, 1915; For. Rel., 1917, supp. 2, p. 497.

³ File No. 763.72111/2236½.

After carefully considering the suggestion I am convinced that this Government is in no position to adopt that view. To accept it would be to admit that the Government of the United States failed in its duty to its own citizens and permitted them to run risks without attempting to prevent them from doing so.

By its note to the German Government on February 10th this Government declared that it would hold Germany to a strict accountability for the loss of American lives and property within the "war zone." It did not discriminate as to the vessels carrying American citizens and property. If it intended to discriminate, it was its manifest duty to its own people to have said so, and to have issued a public warning to them to keep off British ships and to say to them "If you go, you go at your peril."

On the contrary, this Government has permitted in silence hundreds of American citizens to travel by British steamships crossing the "war zone." It has by its silence allowed them to believe that their Government approved and would stand behind them in case their legal rights were invaded.

I do not see how this Government can avoid responsibility now by asserting that an American in traveling by a British vessel took a risk, which he should not have taken. If it held that point of view it should have declared it at the time it protested against the "war zone."

The Government has even gone further than that. When the German Embassy published its "Warning" ⁴ (a most improper proceeding diplomatically) just prior to the sailing of the *Lusitania*, this Government continued silent. It did not even then advise Americans not to sail on British vessels. It continued to allow them to believe that the assertions in the note of February 10th were unconditional.

It is my opinion in view of the facts that it would cause general public condemnation and indignant criticism in this country, if the Government should attempt now to avoid vigorous action by asserting that the Americans drowned by the torpedoing of the *Lusitania* were blamable in having taken passage on that vessel. They had the right to rely on the note of February 10th, and they had the right to expect a warning from their Government if it considered that it could not support them if they took risks by going abroad on British vessels.

I think that it would be a serious mistake for this Government to take a position so untenable and so vulnerable to attack if it should be taken.

With great respect [etc.]

ROBERT LANSING

⁴ See document 72.

78

*The Secretary of State to the President*⁵

May 10, 1915.

MY DEAR MR. PRESIDENT: I am sending you a memorandum by Mr. Lansing in regard to the question of "Warning".^{5a} As you and I have gone over this matter together I need not re-state my views.

Mr. Villard, of the New York *Evening Post*, called this morning. I do not know what value you attach to his opinions but he presented the idea of calling a conference of neutral nations to discuss the interference with trade, of which both sides have been guilty.

I explained to him that the difficulty about calling a neutral conference was that any position taken by such a conference during the war would be considered, not upon its merits, but as it affected one side or the other. He thought that both sides had done enough so that complaint could be made against the action of both sides.

With assurances of high respect [etc.]

W. J. BRYAN

79

*The President to the Secretary of State*⁶

10 May, 1915.

MY DEAR MR. SECRETARY: After all, this * does not express Page's own opinion, but what he takes to be public opinion at the moment in Great Britain.

It is a very serious thing to have such things thought, because everything that affects the opinion of the world regarding us affects our influence for good.

Faithfully Yours,

W. W.

80

*Memorandum by the Counselor for the Department of State (Lansing)*⁷

[WASHINGTON,] May 10, 1915.

POSSIBLE GERMAN DEFENSES

First.—*The Lusitania carried in its cargo a large quantity of munitions of war for Great Britain and was, therefore, properly destroyed.*

⁵ File No. 763.72111/2236½.

^{5a} Document 77, *supra*.

⁶ File No. 763.72/2541.

* Page's despatch about the *Lusitania*, which I find I have burned. [Footnote in the original. Printed here as document 76.]

⁷ File No. 763.72/1770½.

This fact, in order to be effective in defense, must be shown to have been communicated to the German naval force making the attack on the vessel.

If so communicated the information came from the representatives of Germany in this country showing the ability to communicate with Berlin.

The presence of munitions of war in the cargo does not in itself relieve the German naval authorities from stopping the vessel and permitting those on board to take to the boats before the torpedo was launched.

The necessity for attack without warning and without delay must rest upon some other defense, which is stated to be—

Second.—The Lusitania naturally carried guns to resist attack by German war craft.

This defense must be based on actual knowledge or justifiable suspicion.

The fact is that the *Lusitania* had no guns mounted or unmounted and so was entirely unarmed (Collector Malone's statement).^{7a}

As the German representatives in this country had means of communicating the fact of the presence of munitions of war on board to their Government they had equal facilities to notify them that the vessel was unarmed. They cannot avoid responsibility by claiming that they suspected the vessel was armed, when they had the means of obtaining actual knowledge showing that the suspicion was unwarranted.

The first defense must rest on knowledge; the second defense on ignorance. If the German Government had knowledge in one case, they are chargeable with knowledge in the second case.

Third.—The German Embassy gave public warning through the press to American citizens not to travel through the "war zone" on British vessels.

The German Government cannot relieve themselves of responsibility for doing an illegal and inhuman act by announcing that they intend to violate the principles of law and humanity.

The communication was not addressed to the Government of the United States. The German Embassy went over the head of the Administration and addressed the American people. Such procedure was an act of insolence similar to the giving of publicity to his memorandum by the German Ambassador. Advantage was taken of the American doctrine of the right of freedom of the press to ignore the Government and to address the people directly. A foreign diplomatic representative is accredited to the Government of the United States, not to the People of the United States. An Amba-

^{7a} See document 75.

sador's means of communication is through the Department of State. The conduct of the German Ambassador in this case is an indefensible breach of propriety, an insult to this Government.

If the warning had been delivered to this Government, it would have been compelled to decide whether it should be made public. It had no opportunity to do this. It did, however, have opportunity to advise the American people to heed the warning. This it did not do. It ignored the warning, and by remaining silent gave the impression that the warning might be ignored.

81

*The Counselor for the Department of State (Lansing) to the Secretary of State*⁸

[WASHINGTON,] May 10, 1915.

DEAR MR. SECRETARY: I offer the following course of procedure in the *Lusitania* case as a basis of discussion:

An earnest protest against the torpedoing of an unarmed passenger steamship on the high seas without giving warning of attack or placing non-combatants in a place of safety.

A declaration that the act violated the established rules of international law and the principles of humanity.

A reaffirmation of the assertion made in the note of February 10th that the German Government would be held to a strict accountability for loss of American lives and property.

A demand (1) that the German Government disavow the act and apologize for it; (2) that the officers guilty of the offense be punished; (3) that the German Government acknowledge liability and promise to pay a just indemnity; and (4) that the German Government will guarantee that in the future ample measures will be taken to insure the safety of the lives of American citizens on the high seas unless they are traveling on a vessel of belligerent nationality, which is armed or being convoyed by belligerent war craft.

In case the German Government refuse to comply with these demands, diplomatic relations could be severed.

The severance of diplomatic relations does not necessarily mean war. It may mean that a government is unwilling to continue intercourse with another government, which has grievously offended against law and right and which refuses to rectify the offense by making proper amends. It is an evidence of extreme displeasure but is not a hostile act.

In presenting the foregoing outline of action for consideration I do not express any opinion.

⁸ File No. 763.72/1771½.

There is another course of action, which I think worthy of consideration.

The neutral powers, Netherlands, Denmark, Sweden, Norway, Italy and the United States, might jointly agree to send identic notes to Germany and also to Great Britain protesting vigorously against the violations of international law with which each is charged. The protest to Germany would have to cover breaches of inhumanity as well as of international law. The protest to Great Britain would cover illegal interruption of trade between neutrals.

If such a course is wise, the present would seem to be an opportune time. I do not think, however, that this would relieve the Government of a separate protest to Germany on the *Lusitania* case, but it might give a chance to make it more moderate in tone.

Faithfully yours,

ROBERT LANSING

82

*The Secretary of State to the President*⁹

May 10, 1915.

MY DEAR MR. PRESIDENT: I am sending you a memorandum prepared by Mr. Lansing, together with a letter to me,^{9a} suggesting courses to be pursued. While I presume you have already prepared an outline of the note, these may be suggestive.

With assurances of high respect, I am, my dear Mr. President,

Very sincerely yours,

W. J. BRYAN

P.S. I am enclosing also an editorial from the *Springfield Republican* which probably has more weight than any other paper of the same circulation in the country.

83

*The President to the Secretary of State*¹⁰

11 May, 1915.

MY DEAR MR. SECRETARY: Mr. Lansing's argument seems to me unanswerable.^{10a} Even if it were just to take the position that a warning that an unlawful and outrageous thing would be done might

⁹ File No. 763.72/1771½.

The President replied on May 12, 1915 (File No. 763.72/1772½): "I am sincerely obliged to you for these papers, and would appreciate it if you would ask Mr. Lansing to let me have a copy of these suggestions as to alternative courses of action."

^{9a} Documents 80 and 81, respectively.

¹⁰ File No. 763.72111/2237½.

^{10a} See documents 77 and 78, respectively.

operate as an exemption from responsibility on the part of those who issued it, so far as our citizens were concerned, it is now too late to take it. We defined our position at the outset and cannot alter it,—at any rate so far as it affects the past.

Faithfully Yours,

W. W.

Mr. Villard's suggestion interests me very much; but the objections you make are certainly very vital ones. We can turn the matter over in our minds.

84

*The Secretary of State to the Ambassador in Germany (Gerard)*¹¹

[Telegram]

WASHINGTON, May 13, 1915.

1664. Please call on the Minister of Foreign Affairs and after reading to him this communication leave with him a copy.

In view of recent acts of the German authorities in violation of American rights on the high seas which culminated in the torpedoing and sinking of the British steamship *Lusitania* on May 7, 1915, by which over 100 American citizens lost their lives, it is clearly wise and desirable that the Government of the United States and the Imperial German Government should come to a clear and full understanding as to the grave situation which has resulted.

The sinking of the British passenger steamer *Falaba* by a German submarine on March 28th, through which Leon C. Thrasher, an American citizen was drowned; the attack on April 28th on the American vessel *Cushing*, by a German aeroplane; the torpedoing on May 1st of the American vessel *Gulflight* by a German submarine, as a result of which two or more American citizens met their death; and, finally, the torpedoing and sinking of the steamship *Lusitania*, constitute a series of events, which the Government of the United States has observed with growing concern, distress and amazement.

Recalling the humane and enlightened attitude hitherto assumed by the Imperial German Government in matters of international right and particularly with regard to the freedom of the seas; having learned to recognize the German views and the German influence in the field of international obligation as always engaged upon the side of justice and humanity; and having understood the instructions of the Imperial German Government to its naval commanders to be upon the same plane of humane action prescribed by the naval codes of other nations, the Government of the United States was loath to believe, it cannot now bring itself to believe, that these acts, so absolutely contrary to the rules, the practices, and the spirit of modern warfare, could have the countenance or sanction of that great Government. It feels it to be its duty, therefore,

¹¹ File No. 763.72/1764a; For. Rel., 1915, supp., p. 393.

to address the Imperial German Government concerning them with the utmost frankness and in the earnest hope that it is not mistaken in expecting action on the part of the Imperial German Government which will correct the unfortunate impressions which have been created and vindicate once more the position of that Government with regard to the sacred freedom of the seas.

The Government of the United States has been apprised that the Imperial German Government considered themselves to be obliged by the extraordinary circumstances of the present war and the measures adopted by their adversaries in seeking to cut Germany off from all commerce, to adopt methods of retaliation which go much beyond the ordinary methods of warfare at sea, in the proclamation of a war zone from which they have warned neutral ships to keep away. This Government has already taken occasion to inform the Imperial German Government that it cannot admit the adoption of such measures or such a warning of danger to operate as in any degree an abbreviation of the rights of American ship masters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality; and that it must hold the Imperial German Government to a strict accountability for any infringement of those rights, intentional or incidental. It does not understand the Imperial German Government to question those rights. It assumes, on the contrary, that the Imperial Government accept, as of course, the rule that the lives of non-combatants, whether they be of neutral citizenship or citizens of one of the nations at war, cannot lawfully or rightfully be put in jeopardy by the capture or destruction of an unarmed merchantman, and recognize also, as all other nations do, the obligation to take the usual precaution of visit and search to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag.

The Government of the United States, therefore, desires to call the attention of the Imperial German Government with the utmost earnestness to the fact that the objection to their present method of attack against the trade of their enemies lies in the practical impossibility of employing submarines in the destruction of commerce without disregarding those rules of fairness, reason, justice, and humanity, which all modern opinion regards as imperative. It is practically impossible for the officers of a submarine to visit a merchantman at sea and examine her papers and cargo. It is practically impossible for them to make a prize of her; and, if they cannot put a prize crew on board of her, they cannot sink her without leaving her crew and all on board of her to the mercy of the sea in her small boats. These facts it is understood the Imperial German Government frankly admit. We are informed that in the instances of which we have spoken time enough for even that poor measure of safety was not given, and in at least two of the cases cited not so much as a warning was received. Manifestly submarines cannot be used against merchantmen, as the last few weeks have shown, without an inevitable violation of many sacred principles of justice and humanity.

American citizens act within their indisputable rights in taking their ships and in traveling wherever their legitimate business calls them upon the high seas, and exercise those rights in what should

be the well justified confidence that their lives will not be endangered by acts done in clear violation of universally acknowledged international obligations, and certainly in the confidence that their own Government will sustain them in the exercise of their rights.

There was recently published in the newspapers of the United States, I regret to inform the Imperial German Government, a formal warning, purporting to come from the Imperial German Embassy at Washington, addressed to the people of the United States, and stating, in effect, that any citizen of the United States who exercised his right of free travel upon the seas would do so at his peril if his journey should take him within the zone of waters within which the Imperial German Navy was using submarines against the commerce of Great Britain and France, notwithstanding the respectful but very earnest protest of his government, the Government of the United States. I do not refer to this for the purpose of calling the attention of the Imperial German Government at this time to the surprising irregularity of a communication from the Imperial German Embassy at Washington addressed to the people of the United States through the newspapers, but only for the purpose of pointing out that no warning that an unlawful and inhumane act will be committed can possibly be accepted as an excuse or palliation for that act or as an abatement of the responsibility for its commission.

Long acquainted as this Government has been with the character of the Imperial German Government and with the high principles of equity by which they have in the past been actuated and guided, the Government of the United States cannot believe that the commanders of the vessels which committed these acts of lawlessness did so except under a misapprehension of the orders issued by the Imperial German naval authorities. It takes it for granted that, at least within the practical possibilities of every such case, the commanders even of submarines were expected to do nothing that would involve the lives of non-combatants or the safety of neutral ships, even at the cost of failing of their object of capture or destruction. It confidently expects, therefore, that the Imperial German Government will disavow the acts of which the Government of the United States complains, that they will make reparation so far as reparation is possible for injuries which are without measure, and that they will take immediate steps to prevent the recurrence of anything so obviously subversive of the principles of warfare for which the Imperial German Government have in the past so wisely and so firmly contended.

The Government and people of the United States look to the Imperial German Government for just, prompt, and enlightened action in this vital matter with the greater confidence because the United States and Germany are bound together not only by special ties of friendship but also by the explicit stipulations of the Treaty of 1828 between the United States and the Kingdom of Prussia.

Expressions of regret and offers of reparation in case of the destruction of neutral ships sunk by mistake, while they may satisfy international obligations, if no loss of life results, can not justify or excuse a practice, the natural and necessary effect of which is to subject neutral nations and neutral persons to new and immeasurable risks.

The Imperial German Government will not expect the Government of the United States to omit any word or any act necessary to the performance of its sacred duty of maintaining the rights of the United States and its citizens and of safeguarding their free exercise and enjoyment.

BRYAN

85

The Counselor for the Department of State (Lansing) to the Secretary of State ^{11a}

WASHINGTON, May 14, 1915.

DEAR MR. SECRETARY: The memorandum of vessels detained in British ports prepared by Mr. Johnson,^{11b} which you handed to me this afternoon, covers only "cotton ships." There are a number of other vessels detained which carry different cargoes.

I do not think that it would do to confine a representation to Great Britain to vessels only laden with cotton. It would cause undoubtedly much criticism from owners of other vessels and cargoes. The data is being collected as rapidly as possible, but I do not see how a representation could be prepared before Monday, which would be at all complete.

In regard to your suggestion that the President give public notice advising, asking or directing Americans not to take passage on belligerent steamships while the controversy as to submarine warfare is pending, that could of course be prepared at once.

In compliance with your request that I draft a notice such as is suggested I submit the following:

"The President in view of the present diplomatic situation requests that American citizens, intending to proceed abroad and to traverse waters adjacent to the coasts of Great Britain and France, will refrain from taking passage on vessels of belligerent nationality pending the exchange of views between this Government and the Government of Germany regarding the use of submarines in interrupting vessels of commerce in those waters."

I think that this is the sort of notice, which you had in mind. I doubt if more than a request could be made, as I believe there is no law, by which Americans could be restrained from going on belligerent vessels if they saw fit or by which such vessels could be prevented from receiving American passengers. Furthermore a request like this would be, in my opinion, almost, if not quite, as effective as an order, and presents no legal difficulties.

^{11a} File No. 341.1153/11.

^{11b} Not printed.

Do you not think that, if this notice is given, it will be said "Why did the Government not give this notice before? Why did it wait after the sinking of the *Falaba*, *Cushing* and *Gulflight* until a hundred Americans lost their lives on the *Lusitania*? Even admitting that the effect on the German Government might be beneficial in influencing their reply, I think that the criticism in this country must be considered. It is a matter of policy which must be viewed from every standpoint.

Faithfully yours,

ROBERT LANSING

86

*The Counselor for the Department of State (Lansing) to the Secretary of State*¹²

[WASHINGTON,] May 15, 1915.

DEAR MR. SECRETARY: I thought over our conversation of yesterday in regard to a note of complaint to Great Britain for violation of American rights on the high seas, and I came to the conclusion that the subject might be treated in a general rather than a specific way, which would avoid the necessity of waiting for complete data.

In accordance with that conclusion I have drafted an instruction to Ambassador Page, which is enclosed. It is an uncompromising presentation and "shows its teeth". Probably you will think it too strong, or rather too strongly expressed. In view, however, of the note to Germany a note to Great Britain ought not to be in more friendly or conciliatory language, if it is to give an expression of impartiality to the German Government which will effect in any way their reply.

I am in favor of sending some note similar to the one enclosed as the British treatment of our vessels and cargoes to neutral countries is in flagrant violation of law and contrary to Sir Edward Grey's assurances.

The opportune time to send a communication of this sort seems to me to be the present, as it will evince our impartial purpose to protect American rights on the high seas, whoever is the aggressor. We have just complaints against both. We have already been too complacent with Great Britain in the enforcement of the Order in Council. For two months they have been violating the rights of neutrals.

Faithfully yours,

ROBERT LANSING

¹² File No. 763.72112/1181½.

[Enclosure]

Draft Instruction to the Ambassador in Great Britain (Page)^{12a}

You are instructed to address a note to His Britannic Majesty's Principal Secretary of State for Foreign Affairs in the following sense:

The Government of the United States in its note relative to the British Order in Council of March 11, 1915, expressed the expectation that the orders issued to His Majesty's naval forces charged with the duty of enforcing the Order in Council would be of such a nature as not, quote, to impose restrictions upon neutral trade more burdensome than those which have been regarded as inevitable when the ports of a belligerent are actually blockaded by the ships of its enemy, unquote.

Relying upon this expectation, which was amply warranted by the assurances contained in Your Excellency's note of March 15th transmitting the Order in Council, the Government of the United States has observed with increasing surprise and disappointment the method of enforcement of the Order in Council by the British authorities. Realizing that the institution of a policy of commercial non-intercourse with an enemy presented difficulties of exceptional character in view of the conditions prevailing in the present war the Government of the United States patiently awaited the adaptation of the actual practice under the provisions of the Order in Council to the continued exercise of rights of commerce between neutral nations.

Two months have now passed since the British authorities entered upon the enforcement of the Order in Council. The time has been ample for the British Government to put into practice the considerate policy toward neutral trade, which was assured in Your Excellency's note. Yet, in spite of these assurances, neutral rights are disregarded and the long-sanctioned rules of international law governing the freedom of the seas to neutrals are repeatedly violated. There has been no apparent abatement of the rigorous methods adopted at the outset by the British naval authorities.

American and other neutral vessels plying between neutral ports and laden with cargoes destined to neutral consignees have been stopped on the high seas and taken into British ports. American vessels and cargoes have been held without the cause of detention being made known to the Government of the United States. In some instances the cargoes have been preempted and, though compensation has been promised, the owners have been brought to the verge of financial ruin through failure of the British Government to recompense them promptly for the goods thus preempted. Furthermore, no reparation has been offered for irregular or undue detentions of vessels and cargoes which were subsequently released.

The unprecedented procedure of arresting neutral vessels and neutral cargoes on the high seas though in trade between neutral ports, of unduly detaining them in British ports without disclosing the *prima facie* cause, of refusing to permit them in many instances to proceed to their destination, and of practically requisitioning cargoes

^{12a} Not sent.

consigned to neutrals, has caused a situation, which the Government of the United States can no longer view with patience or in silence.

Not only is grievous wrong being done to the American citizens interested in the vessels and cargoes, which have been detained without authority of the law or the usage of nations, but the menace of the British practice is forcing American citizens to incur unknown hazards in the special privileges which they are entitled to enjoy, and is threatening to disorganize if not to destroy regular traffic between the United States and the neutral countries of Europe, to which they should have full liberty to resort in trade and navigation.

The Government of His Britannic Majesty should realize that the practices of the British naval authorities in their enforcement of the Order in Council of March 11th has destroyed the expectation and hope of the Government of the United States, which were based on the assurances of Your Excellency in the note of March 15th; that the conditions of trade between the United States and other neutral nations as a consequence of these practices have become intolerable and can no longer be endured without complaint; and that a continuance of these practices so subversive of neutral rights and so destructive of their enjoyment will invite measures by the Government of the United States, which will restore to American citizens the freedom of the high seas and protect them in the exercise of their just rights.

The Government of the United States sincerely hopes that His Majesty's Government, realizing the gravity of the situation and appreciating the duty which this Government owes to itself and to its citizens, will so modify the present practices of its naval authorities that it will not become necessary for the Government of the United States to make further representations or to take any step to protect American citizens in their commerce with neutral nations.

The Government of the United States, while making this appeal to His Majesty's Government in all friendliness and with a full appreciation of the apparent purposes of their policy, desires it to be distinctly understood that the rights of American citizens on the high seas must be respected and that this Government will not fail to adopt measures necessary to insure that respect and to prevent any impairment of those rights which have been universally recognized by the principles of international law and the usages of maritime nations.

87

*The Counselor for the Department of State (Lansing) to the President*¹³

May 17, 1915.

DEAR MR. PRESIDENT: In compliance with the request contained in your note of the 12th instant¹⁴ to the Secretary of State ask-

¹³ File No. 763.72/1772½.

The President replied on May 20, 1915 (File No. 763.72/1772½): "May I not thank you very warmly for your kindness in sending me an amplified copy of your suggestions as to alternative courses of action should the Imperial German Government not respond as we hope it will to our note? I shall keep this by me."

¹⁴ See footnote 9, document 82.

ing for copies of the suggestions as to alternative courses of action made in my letter to the Secretary on the 10th, it seemed to me better to repeat them in a more detailed form.

The suggestions apply to possible action in the event Germany refuses to comply with the demands made upon her.

First.—Diplomatic relations could be severed by the withdrawal of our Ambassador. The natural course would be for the German Government to recall Count Bernstorff or at least to direct him to leave Washington and cease to communicate with this Government.

This action would not necessarily mean war. It might mean that this Government is unwilling to continue intercourse with the German Government because it has grievously offended against the principles of international law and humanity affecting American citizens and has refused to rectify the offense by making proper amends and giving proper assurances. It is an evidence of extreme displeasure but is not in itself a hostile act.

For this method of emphasizing a protest or demand there are several precedents, one of the most recent being the withdrawal of Baron Fava because of the failure of our Government to take steps to punish those persons guilty of lynching Italians at New Orleans and to pay a satisfactory indemnity.

The severance of diplomatic relations may, however, be interpreted as an evidence of hostile purpose. As the interpretation of the course of action in this case would lie largely with Germany, it is necessary in taking this step to consider the present temper of the German Government. My own belief is that it would be viewed by them as unfriendly, if not hostile, and that they might consider it to be a practical declaration of war.

Second.—The alternative course of action would be to approach the other neutral powers particularly affected by the submarine war, namely, Netherlands, Denmark, Sweden and Norway, as to the sending of identic notes to both Germany and Great Britain protesting vigorously against the disregard shown of neutral rights on the high seas and asserting that, unless ample assurances were given that these rights would be respected, the neutral nations would consider what joint action they should take to protect their citizens on the high seas in the enjoyment of their rights.

If this course of action should be decided upon, I think that as a preliminary step an immediate representation should be made to Great Britain pointing out the failure of the British Government to act in accord with Sir Edward Grey's assurances of consideration for neutral rights given in his note of March 15th. By doing this the disregard of Germany for law and humanity and of Great

Britain for law would form substantial grounds for joint protest and, if necessary, for joint action. It would furthermore indicate entire impartiality toward the belligerents and show that the neutrals sought to secure the freedom of the seas for their people, which-ever belligerent invaded their rights.

A copy of this letter has been given to the Secretary of State.

I am [etc.]

ROBERT LANSING

88

*The Secretary of State to the Ambassador in Germany (Gerard)*¹⁵

[Telegram]

WASHINGTON, *May 23, 1915—2 p.m.*

1723. Despatches from House in London give us reason to hope that the new British ministry will be willing now to consider the proposals which we submitted to the Governments of Germany and Great Britain in our identic note of February 22nd [20th] last,^{15a} if the German government will renew the proposals either through us or in any way it may prefer and will now include in its proposals a mutual agreement to discontinue the use of poisonous gases. Please take this up unofficially and very confidentially with the German foreign office, but be careful at the same time to make it perfectly clear that while this action on the part of the German government if it lead to successful results would practically clear away the difficult questions now under discussion between ourselves and them we are conveying this information and making this suggestion only as the sincere common friend of Germany and England desirous of rendering any service to them and not as if we for a moment suggested a bargain or compromise with regard to our own rights upon the seas or were willing to make those rights contingent upon what England and Germany might agree upon. No matter what England does to Germany or Germany to England our rights are unaltered and we cannot abate them in the least. They cannot depend upon any circumstances of the war which do not by recognized international law constitute a necessary limitation. You will know how to make this clear at the same time that our services are most cordially offered and it is made evident that the adoption of this suggestion would furnish a happy way of clearing the field.

BRYAN

¹⁵ File No. 763.72/1500a; For. Rel., 1915, supp. p. 406.

^{15a} Document 52.

*The Ambassador in Germany (Gerard) to the Secretary of State*¹⁶

[Telegram]

BERLIN, May 25, 1915—4 p.m.

[Received May 26—7.05 p.m.]

2289. Referring to your 1723, May 23, 2 p.m., regret your telegram not quite clear because you say that House reports that new British Ministry now willing to consider the proposals which we made in our note received February 22nd last, and you then speak of getting the German Government to renew its proposals. The essential difference between the proposition made in our identic note and the German counter proposal is that we proposed that foodstuffs should be allowed to enter Germany and the German counter proposal demanded not only foodstuff and forage but raw material also. Colonel House cabled me from London direct on May 18, the text of his telegram having been repeated in your 1622 [1712] to me. I immediately had interview with Von Jagow and on May 21st cabled House as follows:

"Gave your suggestion to Von Jagow this morning. This proposition of permitting passage food in return for cessation of submarine methods already made and declined. If raw material added matter can perhaps be arranged. Germany in no need of food. Ask Department to cable you my cable number 2305 [2205] of May 10, 5 p.m.["]

This disposes of the proposition if you mean that the British Government is willing to allow foodstuffs but not raw material to enter Germany in return for cessation of torpedoing of merchant ships without notice by submarines. I had a talk to-day with Zimmerman, Von Jagow being out of town, and he reiterated what Von Jagow said but expressed himself as satisfied that an agreement might be reached on somewhat the following basis: Germany and England both agree not to use gases. Food, cotton, copper, rubber and such other raw material as does not directly enter into manufacture of munitions of war to be allowed to enter Germany. Germany to stop torpedoing of merchant vessels without notice but England to agree that merchant vessels shall not be armed and shall not attempt to ram submarines.

I think German answer to *Lusitania* note will be only in first place a statement of facts and we shall be asked if we agree that this statement correctly sets forth the facts.

GERARD

¹⁶ File No. 763.72/2478; For. Rel., 1915. supp., p. 415.

90

*The Department of State to the Italian Embassy*¹⁷

MEMORANDUM

The Department of State has the honor to acknowledge the receipt of the Royal Italian Embassy's memorandum of the 24th instant relative to a list of contraband of war, which is being prepared by the Royal Italian Government, to be applied during the war in which Italy is now engaged. The Italian Embassy, following the instructions of its Government, requests the consent of the United States Government to the issuance of a list of contraband more extensive than the one contained in Article 15 of the Treaty of 1871 between the United States and Italy.¹⁸

In view of the fact that the contraband lists published by the other countries engaged in the present European war comprise numerous articles not included in the Treaty of 1871 and other treaties of the United States with the warring powers, the Government of the United States is inclined to raise no question as to the list of contraband proposed to be issued by the Italian Government on the ground that it does not conform to the list in Article 15 of the Treaty of 1871 above mentioned.

WASHINGTON, May 25, 1915.

91

*The Secretary of State to the Ambassador in Germany (Gerard)*¹⁹

[Telegram]

WASHINGTON, May 27, 1915—3 p.m.

Your No. 2289, May 25, 4 p.m. The President directs me to send you the following:

"Please point out kindly and unofficially but very earnestly to the Foreign Office that the conditions now prevailing in the marine war zone are rapidly becoming intolerable to the whole world, that their rectification is in the interest of both parties to the present conflict, and that this government, while it has nothing to propose as between the belligerents, but will confine itself to the protection of its own clear rights, will act with pleasure in conveying any proposals that either the one government or the other has to make for the correction of the present conditions fraught as they are with universal danger."

¹⁷ File No. 763.72112/1181; For. Rel., 1915, supp., p. 164.

¹⁸ Vol. I, document 144, p. 483.

¹⁹ File No. 763.72/2478; For. Rel., 1915, supp., p. 418.

Do not mistake instructions in our 1723, May 23, 2 p.m. We did not state that the new Ministry in England would be willing but said only that we had reason to hope that they would be.

BRYAN

92

*Memorandum by the Counselor for the Department of State
(Lansing)* ²⁰

[WASHINGTON,] May 27, 1915.

In a conversation, which I had this afternoon at the Department with Sir Cecil Spring Rice, I said to him that information received from many sources indicated that Germany was not suffering from lack of food but on the contrary had sufficient to last until the next harvest, and that after that there would be a great abundance as all arable land had been planted with grain and other food crops.

The Ambassador replied that the information was undoubtedly correct as it coincided with the reports received by his Government.

I asked him why, in view of this fact, his Government should be so determined to keep food stuffs out of Germany. I said "You admit that you cannot starve Germany by interrupting food imports, and yet you continue your efforts to stop the trade and lay yourself open to the charge of inhumanity by attempting to reduce Germany by starvation.[""]

He replied that what I said was true but that knowledge of Germany's food supply had been only recently obtained by his Government.

I asked him, if, knowing the facts and the futility of their "starvation policy," it would not be a wise course for his Government to accede to the proposal, which was made some time ago, that Great Britain would permit food stuffs to go to the civil population of Germany provided Germany would cease her submarine warfare on merchant ships. I pointed out to him that the idea of starving men, women and children seemed to many people as inhuman as drowning them; that the legality of the attempt was neither here nor there, since the very idea was repugnant to the humane sentiments of modern society; that the attempt offered a more or less plausible excuse for Germany's sinking of unarmed merchantmen; and that Germany was, as he knew, using this excuse with considerable effect.

The Ambassador replied that what I had said was convincing; that he knew that the purpose of starving the German people had made a bad impression in this country, although we had done the same thing in our Civil War; and that the Germans asserted that their submarine warfare was only retaliatory.

²⁰ File No. 763.72112/12931; For. Rel., 1915, supp., p. 416.

I asked him, "Why then does not your Government relieve themselves of the odium of pursuing an inhuman policy by agreeing to allow food to go to the civil population of Germany? You have nothing to lose, because you admit you cannot starve the nation into submission, and you have much to gain, because you will put Germany in the position of having to stop her submarine attacks or else bear alone the stigma of being cruel and inhuman. Whichever way the German Government decides Great Britain would seem to be the gainer. I do not suggest this course on humanitarian grounds but solely on the ground of expediency. It seems to me the politic thing for your Government to do."

He replied with marked emphasis, "You are entirely right. It would be the very best course my Government could take, and would put Germany in a serious dilemma. I shall suggest it to Sir Edward Grey and urge its adoption."

I said to him that, if he proposed to his Government to take that action, I earnestly hoped that he would not mention having had any conversation with me on the subject, that he must understand I had spoken confidentially and personally, and that to have anyone in the Department making, even unofficially, such a suggestion and especially advancing arguments in its favor from the British standpoint would be most embarrassing.

The Ambassador replied that he understood my position and would promise that our conversation would be treated as secret and not mentioned in any way. He added, "The suggestion will be my own and so will the arguments in its favor. I will not mention your name or your Government in connection with the subject."

He spoke again of the tactical benefit to his Government, if the course proposed should be adopted, and of the favorable effect which he knew it would have on public opinion in this country.

He left me with the impression that he was heartily in favor of the suggestion and would do all that he could to have his Government adopt it.

ROBERT LANSING

93

*The Ambassador in Germany (Gerard) to the Secretary of State*²¹

[Telegram]

BERLIN, May 29, 1915—7 p. m.

[Received May 31—1.30 a. m.]

2326. The following is the text of the reply of the German Government to the *Lusitania* note, which I am informed will be published here Monday:

²¹ File No. 763.72/1830; For. Rel., 1915, supp., p. 419.

"Berlin, May 28th, 1915. The undersigned has the honor to make the following reply to the note of His Excellency Mr. James W. Gerard, Ambassador of the United States of America, dated the 15th [13th] instant, on the subject of the impairment of many American interests by the German submarine war.

The Imperial Government has subjected the statements of the Government of the United States to a careful examination and has the lively wish on its part also to contribute in a convincing and friendly manner to clear up any misunderstandings which may have entered into the relations of the two Governments through the events mentioned by the American Government.

With regard firstly to the cases of the American steamers *Cushing* and *Gulflight*, the American Embassy has already been informed that it is far from the German Government to have any intention of ordering attacks by submarines or flyers on neutral vessels in the zone which have not been guilty of any hostile act; on the contrary the most explicit instructions have been repeatedly given the German armed forces to avoid attacking such vessels. If neutral vessels have come to grief through the German submarine war during the past few months, by mistake, it is a question of isolated and exceptional cases which are traceable to the misuse of flags by British Government in connection with carelessness or suspicious actions on the part of [the] captains of the vessels. In all cases where a neutral vessel through no fault of its own has come to grief through the German submarine or flyers according to the facts as ascertained by the German Government, this Government has expressed its regret at the unfortunate occurrence and promised indemnification where the facts justified it. The German Government will treat the cases of the American steamers *Cushing* and *Gulflight* according to the same principles; an investigation of these cases is in progress, its results will be communicated to the Embassy shortly; the investigation might if thought desirable be supplemented by an international commission of inquiry pursuant to title III of the Hague Convention of October 18th, 1907, for the pacific settlement of international disputes.

In the case of the sinking of the English steamer *Falaba*, the commander of the German submarine had the intention of allowing passengers and crew ample opportunity to save themselves. It was not until the captain disregarded the order to lay to, and took to flight, sending up rocket signals for help, that the German commander ordered the crew and passengers by signals and megaphone to leave the ship within ten minutes; as a matter of fact he allowed them twenty-three minutes and did not fire the torpedo until suspicious steamers were hurrying to the aid of the *Falaba*.

With regard to the loss of life when the British passenger steamer *Lusitania* was sunk, the German Government has already expressed its deep regret to the neutral Governments concerned that nationals of those countries lost their lives on that occasion. The Imperial Government must state for the rest the impression that certain important facts most directly connected with the sinking of the *Lusitania* may have escaped the attention of the Government of the United States. It therefore considers it necessary in the interest and of the clear and full understanding aimed at by either Government pri-

marily to convince itself that the reports of the facts which are before the two Governments are complete and in agreement.

The Government of the United States proceeds on the assumption that the *Lusitania* is to be considered as an ordinary unarmed merchant vessel. The Imperial Government begs in this connection to point out that the *Lusitania* was one of the largest and fastest English commerce steamers constructed with Government funds as auxiliary cruisers and is expressly included in the navy list published by British Admiralty. It is moreover known to the Imperial Government from reliable information furnished by its officials and neutral passengers that for some time practically all the more valuable English merchant vessels have been provided with guns, ammunition and other weapons and reenforced with a crew specially practiced in manning guns. According to reports at hand here, the *Lusitania* when she left New York undoubtedly had guns on board which were mounted under decks and masked.

The Imperial Government furthermore has the honor to direct the particular attention of the American Government to the fact that the British Admiralty by a secret instruction of February of this year advised the British merchant marine not only to seek protection behind neutral flags and markings but even when so disguised to attack German submarines by ramming them. High rewards have been offered by the British Government as a special incentive for the destruction of the submarines by merchant vessels and such rewards have already been paid out. In view of these facts, which are satisfactorily known to it, the Imperial Government is unable to consider English merchant vessels any longer as "undefended territory" in the zone of maritime war designated by the Admiralty Staff of the Imperial German Navy; the German commanders are consequently no longer in a position to observe the rules of capture otherwise usual and with which they invariably complied before this. Lastly, the Imperial Government must specially point out that on her last trip the *Lusitania*, as on earlier occasions, had Canadian troops and munitions on board, including no less than 5,400 cases of ammunition destined for the destruction of brave German soldiers who are fulfilling with self-sacrifice and devotion their duty in the service of the Fatherland. The German Government believes that it acts in just self-defense when it seeks to protect the lives of its soldiers by destroying ammunition destined for the enemy with the means of war at its command. The English steamship company must have been aware of the dangers to which passengers on board the *Lusitania* were exposed under the circumstances. In taking them on board in spite of this the company quite deliberately tried to use the lives of American citizens as protection for the ammunition carried and violated the clear provisions of American laws which expressly prohibit, and provide punishment for, the carrying of passengers on ships which have explosives on board. The Company thereby wantonly caused the death of so many passengers. According to the express report of the submarine commander concerned, which is further confirmed by all other reports, there can be no doubt that the rapid sinking of the *Lusitania* was primarily due to the explosion of the cargo of ammunition caused by the torpedo. Otherwise, in all human probability, the passengers of the *Lusitania* would have been saved.

The Imperial Government holds the facts recited above to be of sufficient importance to recommend them to a careful examination by the American Government. The Imperial Government begs to reserve a final statement of its position with regard to the demands made in connection with the sinking of the *Lusitania* until a reply is received from the American Government and believes that it should recall here that it took note with satisfaction of the proposals of good offices submitted by the American Government in Berlin and London with a view to paving the way for a *modus vivendi* for the conduct of maritime war between Germany and Great Britain. The Imperial Government furnished at that time ample evidence of its good will by its willingness to consider these proposals. The realization of these proposals failed, as is known, on account of their rejection by the Government of Great Britain.

The undersigned requests his Excellency the Ambassador to bring the above to the knowledge of the American Government and avails himself of the opportunity to renew [etc.]

(Signed) Von Jagow, *Minister for Foreign Affairs.*

GERARD

94

*The Counselor for the Department of State (Lansing) to the Secretary of State*²²

[WASHINGTON,] *June 1, 1915.*

DEAR MR. SECRETARY: The American note of May 13th was founded on the following principles of law and humanity:

1. Citizens of neutral nationality are entitled to traverse the high seas in merchant vessels of any nationality.
2. They are entitled to be protected from danger to life by the exercise of the belligerent right of visit and by the performance of the belligerent duty of placing passengers and crew of an enemy or neutral merchant vessel in safety in the event that the vessel is destroyed.
3. To destroy a merchant vessel without safeguarding the lives of the persons on board is inhuman and morally wrong.

The German note of May 28th does not admit, deny or even discuss these principles which affect the future as well as the past conduct of the German naval authorities. The note reviews the facts and seeks to raise doubts as to the correctness of those on which this Government relies.

The essential issue between the Governments is one of principle and not of fact. I can see no benefit to be derived from disputing as to the invasion of a right unless both parties agree that the right exists.

²² File No. 763.72/1859½.

The German note appears to have been drafted with the design of drawing this Government into a controversy as to the facts and avoiding the questions of the principles involved.

In my opinion the reply to the German note should state that a discussion of the facts of specific cases would be premature before the rights asserted in the American note had been admitted and assurance given that in future those rights would not be violated; that upon receiving such admission and assurance this Government would consider the conflicting evidence as to the facts; and that the question of liability depends primarily on the principles applicable to the cases which have arisen.

The German note is not expressed in language which evinces a friendly sentiment for the United States. It shows an inflexible purpose to continue a course of action which this Government has frankly asserted to be illegal and inhuman. In view of the tone of the German note I do not think that the reply should be less firm or should repeat the friendly expressions of the note of May 13th, which have been with apparent intention, ignored by the German Government.

Faithfully yours,

ROBERT LANSING

95

*The Counselor for the Department of State (Lansing) to the Secretary of State*²³

[WASHINGTON,] June 2, 1915.

DEAR MR. SECRETARY: In drafting the note of May 13th^{23a} you will recall that I suggested that the word "unarmed" be changed to "unresisting." There were two reasons for the suggestion.

First.—It is entirely legal for a merchant vessel to carry a defensive armament without losing her character of a vessel of commerce. The Department issued a statement to this effect last September,^{23b} as the law was well settled on that point. The use of the adjective "unarmed", therefore, implied that if armed a vessel changed her status and was subject to different treatment, which practically contradicted the Department's statement.

Second.—The adjective "unresisting" appeared broader in application in that it covered not only an armament of the vessel but any use of small arms against a boarding party and any attempt to ram a submarine which had signalled a vessel to stop.

²³ File No. 763.72/1860½.

^{23a} Document 84.

^{23b} See footnote 75, p. 384.

As you will recall you thought the word "unarmed" should be retained, and I think that I was at fault in not explaining my reasons more fully.

The German Government has seized the opportunity in its last note to build up an argument on the allegation that the *Lusitania* was armed and the German Ambassador has sent to the Department several affidavits to support the allegation. While I do not think that these affidavits, if true (which is doubtful) constitute a substantial argument for Germany since they do not show that the German Government knew of the armament on the *Lusitania* before the vessel was sunk, I believe, if opportunity offers, the idea of "unresisting" should be emphasized as the only legitimate reason for attack without visit.

Faithfully yours,

ROBERT LANSING

96

*The Collector of Customs of the Port of New York (Malone) to the Secretary of the Treasury (McAdoo)*²⁴

June 4, 1915.

SIR: I beg to make the following reply to your letter of June 1st, 1915, as to the conditions, circumstances, character of equipment, passengers and cargo of the steamship *Lusitania* when she sailed from the Port of New York on May 1, 1915. You submitted eight questions, which I shall answer in the order of your submission:

1. When the *Lusitania* sailed from New York on her last trip to England did she or not have guns on board, mounted on the under-decks and masked?

When the steamship *Lusitania* sailed from the Port of New York on May 1, 1915, on her last trip to England, she did not have any guns of any calibre or description on any deck or decks, on her stern or bow, mounted or unmounted, masked or unmasked. This statement is made of my own official knowledge and is based upon the statements and affidavits of James G. Ross and Israel Finkelstein, United States Inspectors of Customs at the Port of New York, who had charge of discharging the cargo of the steamship *Lusitania* during her last stay in this port; John F. Hoey, United States Inspector of Customs at the Port of New York; William J. Smith,

²⁴ File No. 841.857 L 97/166½.

The text of this letter is from an authenticated copy on file with the Mixed Claims Commission, United States and Germany. The summary of the manifest of the *Lusitania* is attached to the letter but appears not to have been included in the authentication.

United States Inspector of Customs at the Port of New York, and a member of the Neutrality Squad; Frederick A. Dowsey, a supervising officer of the members of the Neutrality Squad; and Captain David J. Roberts, the Marine and Pier Superintendent of the Cunard Steamship Company. These affidavits are affixed under the heading marked "Group A."²⁵ All of these men examined the steamship *Lusitania* and testify that she was without guns, arms or armament. In addition I, myself, boarded the steamship *Lusitania* on the morning of May 1, 1915, within one hour of the time of her actual departure and, after an inspection of her open bow deck and open stern deck, I can testify of my own personal knowledge that there were no guns of any character, mounted or unmounted, masked or unmasked, nor any blocks or blocking, or marked spaces on which guns might be mounted, on the said bow or stern decks, or the open promenade deck, around which I walked on the ship.

2. Did the *Lusitania* on said trip, to your knowledge, have Canadian troops on board?

The *Lusitania* did not have Canadian troops or troops of any nationality on board when she left the Port of New York on May 1, 1915. Moreover, the *Lusitania* carried no group or groups, no body or organization of passengers as such, with or without uniforms; and if any individual reservists of any nationality sailed on the *Lusitania* on this trip they did so as individuals, paying their own passage and receiving their own individual tickets. The Canadian troops, under my observation, are noteworthy for their military appearance. There were no individuals, and no group or groups of men of any particular military bearing or appearance among the passengers on the *Lusitania* sailing on this trip, which would indicate the presence of any individuals or groups of military. This statement is made of my own official and personal knowledge, and my official knowledge is based upon the statements and affidavits of James G. Ross, United States Inspector of Customs at the Port of New York; Israel Finkelstein, United States Inspector of Customs at the Port of New York; William J. Smith, United States Inspector of Customs at the Port of New York and member of the Neutrality Squad; Captain David J. Roberts, the Marine and Pier Superintendent of the Cunard Steamship Company; and Charles P. Sumner, General Agent of the Cunard Steamship Company, who had charge of the inspection of all passengers before they were permitted to board the *Lusitania* on the day she last sailed from the Port of New York. These affidavits are affixed under the heading marked "Group B."²⁵

* Not printed.

3. Did the *Lusitania*, to your knowledge, have, on earlier occasions or on any previous trip, Canadian troops on board?

The *Lusitania* has not carried on any trip since the European war began, Canadian troops or troops of any other nationality on board when leaving the Port of New York. This statement is made of my own official knowledge, and is based upon the statements and affidavits of William J. Smith, United States Inspector of Customs at the Port of New York and member of the Neutrality Squad; John F. Hoey, United States Inspector of Customs at the Port of New York and who, from August 7, 1914 to February 15, 1915, was a member of the Neutrality Squad and detailed to the Cunard Piers; Captain David J. Roberts, the Marine and Pier Superintendent of the Cunard Steamship Company; and Charles P. Sumner, General Agent of the Cunard Steamship Company. These affidavits are affixed under the heading marked "Group B."²⁸

4. Did the *Lusitania* on her last trip have munitions of war on board? If so, state exactly what said munitions consisted of.

Yes; the *Lusitania* on her last trip from the Port of New York had on board 4200 cases of metallic cartridges, three cases shell castings, 18 cases fuses, 1250 cases shrapnel, and one package containing an empty high explosive shell, cut in half. This statement is made of my own official knowledge, based upon the sworn manifests filed by the individual shippers of these consignments at the Custom House, and vided by the proper clerks of the Marine Division at the Custom House; and is based also upon the supervision and report of William J. Smith, United States Inspector of Customs at the Port of New York and member of the Neutrality Squad.

5. Did the *Lusitania* have on board on said trip 5,400 cases of ammunition? If so, to whom were they consigned?

The *Lusitania* had on board on the said trip, 5468 cases of ammunition. The Remington Arms-Union Metallic Cartridge Co. shipped 4200 cases of metallic cartridges, consigned to the Remington Arms Co., London, of which the ultimate consignee was the British Government. G. W. Sheldon & Co. shipped three lots of fuses of 6 cases each, and 1250 cases of shrapnel, consigned to the Deputy Director of Ammunition Stores, Woolwich, England. W. R. Grace & Co., for the Ingersoll-Rand Company, shipped three cases of shell castings, consigned to Superintendent of Experiments, Shoeburyness, England. Adams Express Company shipped one package of empty high explosive shell, cut in half, consigned to R. Gordon Blackie, Queen Ann's Chambers, Westminster, London, England, who is the British representative of the Adams Express Company in London. The

²⁸ Not printed.

said 4200 cases of metallic cartridges, shipped by the Remington Arms-Union Metallic Cartridge Company, were of the calibre of .303, Mark 7, loaded with either Hivel #2 powder manufactured by the Hercules Powder Company, or DuPont #19, manufactured by the Du Pont De Nemours Powder Company, packed 20 in a box without clips, 1,000 to a case, and containing 5 pounds of powder to a thousand cartridges. The three lots of fuses of 6 cases each, and the 1250 cases of shrapnel, shipped by G. W. Sheldon & Company, were shipped for the Bethlehem Steel Company of South Bethlehem, Pa. These fuses contained no explosives, and the 1250 cases of shrapnel were packed at South Bethlehem, Pa. and contained no fuses and no explosives of any description whatsoever. The three cases of shell castings, shipped by W. R. Grace & Company for the Ingersoll-Rand Company, consisted of 12 sample shells of a calibre of 5 inch, weighing 408 pounds net and 489 pounds gross, unprimed and unloaded. These shells were packed at Phillipsburg, New Jersey, on April 30th, 1915, and had no ammunition or explosive substance contained in them or in the packages which contained them. The one package of empty high explosive shell, shipped by the Adams Express Company to its British representative, was a single shell cut into sections and containing no explosive.

6. If you answer "Yes" to question 5, state the rules or regulations of the Department under and by virtue of which the *Lusitania* was permitted to carry said cases of ammunition.

The steamship *Lusitania* was permitted to carry the above said cases of ammunition by virtue of a ruling of the Department of Commerce and Labor, dated May 2, 1911, in interpretation and limitation of Section 4472 of the Revised Statutes of the United States. This ruling reads as follows:

(B)

(41923)

"DEPARTMENT OF COMMERCE AND LABOR
STEAMBOAT-INSPECTION SERVICE
WASHINGTON

Circular Letter 8516

May 2, 1911.

U. S. Supervising and Local Inspectors,
Chief Officers of Customs, and others concerned.

Gentlemen:

Tests of the handling of small arms ammunition, and the rough usage to which it may be subjected without risk of danger from fire or explosion, having been witnessed by representatives of this Department, you are advised that the results of these tests justify beyond doubt the conclusion that small arms ammunition may be transported without restriction on steamers carrying passengers,

and that it need not be confined to the magazine of the vessel as heretofore required, with the exception that large calibre blank black powder ammunition should be stowed as previously required in the magazine.

All rulings previously made upon the transportation of small arms ammunition, inconsistent with the ruling now made, are hereby revoked.

Respectfully,

Geo. Uhler,

Supervising Inspector General, D. N. H.

Approved:

Charles Nagel
Secretary.

7. State whether or not the *Lusitania* on her last voyage carried any explosives of any kind or character. If so, state in detail the character of such explosives, the quantity thereof, when and where loaded upon the ship, and to whom consigned.

The *Lusitania* on her last voyage carried no explosives of any kind or character. The ammunition above set forth as part of the *Lusitania's* cargo on said voyage did not contain explosives within the interpretation of our statutes and regulations as interpreted and promulgated by the Department of Commerce and Labor in the ruling cited above in the answer to question 6.

8. State what examination was made of the ship's manifest before she proceeded on her last voyage, and what steps were taken to verify the same.

When Captain W. T. Turner of the *Lusitania* came to the Custom House on Friday, April 30, 1915, to get clearance for the steamship *Lusitania*, he went to the Marine Division and took the usual master's oath that the manifest which he presented contained a full, just and true account of all goods, wares and merchandise which were actually laden or to be laden on board the steamship *Lusitania*. At this time the acting deputy collector, John Farrell, examined the manifest presented by Captain Turner to ascertain if the fixed preliminary steps had been taken, namely, if the clerks had examined the manifest page by page, and item by item, for the purpose of ascertaining whether or not there were any arms or ammunition included in the cargo and, if so, whether or not the clerks had made such notation in red ink at the side of each such item, so that it might be apparent immediately to the head or acting head of the Marine Division. To see also if the check of the payment of fees in the Cashier's office was attached, and to be certain that all the oaths were properly signed by the master of the vessel. Acting deputy collector Farrell found that the manifest had gone through the usual routine and bore all the checks of all the clerks who were

charged with the duty of examining this manifest. This statement is made of my own official knowledge, based upon the statements and affidavits of John Farrell, clerk and acting deputy collector of the First, or Marine Division of the Collector's Office, Customs Service, Port of New York; Fayette T. Brimmer, clerk of the Marine Division of the Collector's Office, Port of New York; and John F. Morrissey, clerk of the Marine Division of the Collector's Office, Port of New York. These affidavits are affixed under the heading marked "Group C."²⁷

It is practically a physical impossibility to examine the contents of each case and package that is put aboard or attempted to be put on board each outgoing ship from this port. During the early stages of this European war, I personally gave great thought and attention to the question of verifying the contents of packages and cases to be shipped on outgoing steamers. The particular purpose of such examination would be to ascertain if the contents of the package corresponded with the description of the contents in the sworn manifest. I called a conference here at the Custom House of the larger shippers at this port, together with the more experienced men of the Customs Service here and, after a long discussion and exchange of views, it was decided that it would be entirely impracticable to make a physical examination of each package or case going into the cargo of an outgoing ship. The reasons upon which the judgment of impracticability were based were that the shipments of closed cases at that time, and all the greater now because of the increased export trade, were so tremendous that it would literally take an army of men to open and verify the contents of goods in closed cases, replace the goods and reseal the cases. The expense to the Government would make it almost prohibitive. The delay to shippers and steamship companies would make it an untold hardship and inconvenience. The damage to goods would be immeasurable. Any one of these reasons, in the judgment of the conference, would be sufficient to make impossible and impracticable a plan for the physical examination of closed cases of outgoing cargoes. I was therefore obliged to abandon the project, except to the extent that orders were issued to the Customs officials, and particularly to the members of the Neutrality Squad, to report at once to me any circumstance of a suspicious nature with respect to any cargo, or any part of a cargo; in which case a complete and extensive examination and verification of the contents of the particular consignment of goods and cargo would immediately be made by the Customs officials. This has been the utmost that could be done under the circumstances at this port.

²⁷ Not printed.

In reply to your inquiry for any information additional to that brought forth by your specific questions, I beg to state that the steamship *Lusitania*, in her construction, was so built that certain sections were reinforced, and in her structure at certain points, bases were laid for mounting guns of a 6 inch calibre. The said bases were riveted to the steel structure of the ship but were entirely covered over at all times by the wooden planking of the decks. The reason why the deck of the *Lusitania* was built with provision for guns was that if the Admiralty should call the *Lusitania* from the merchant service to the service of the British navy, she would be more readily adaptable to naval purposes. Consequently, if any guns had been mounted, or there was any intention to mount guns on the *Lusitania* on her open bow or open stern deck, these guns would have been mounted on the stable gun bases provided for the purpose, and not upon any blocks or blocking or other alleged paraphernalia for this purpose. This statement is merely made to indicate the improbable character of any testimony which states that any guns were mounted on the bow or stern of the *Lusitania* on wooden blocks or blocking.

In order effectively to carry out in the Port of New York the mandate of the President's Proclamation of Neutrality, and the general orders issued from time to time by the Treasury Department, I formed what has been called the "Neutrality Squad," a squad composed of men picked out of the ranks of the Inspectors of Customs for character, alertness, faithfulness to duty and intelligence. To this squad I have assigned the particular duty of specific and special examination of all ships and cargoes to ascertain any possible violation of neutrality. After the Neutrality Squad was formed, each man assigned to neutrality duty was given a copy of the following specific and written instructions, viz.:

1. To report any repairs or alterations showing any intent to convert a merchant vessel into a vessel of war.
2. To report the loading on board, the unpacking or the mounting of guns.
3. To report the storing on board of unusual quantities of coal, except on vessels usually employed as colliers.
4. To report the painting of a vessel in the shade of dull gray, usually known as "war color."
5. To report the transportation of recruits, troops or reservists in bulk or organization.
6. To report any attempt to ship arms or other munitions of war; and
7. To report any single act or circumstance which would arouse any suspicion as to the legitimate purpose for which the vessel or her cargo was intended.

It has been under these instructions and through the medium of this Neutrality Squad that the information about the steamer

Lusitania had been gathered, which is herewith respectfully submitted.

Respectfully yours,

DUDLEY FIELD MALONE

[Annex]

Summary of the Manifest of the S.S. "Lusitania", April 30, 1915

LIVERPOOL

Sheet Brass	lbs	260000	\$49565
Copper	"	111762	20955
Copper Wire	"	58465	11000
Cheese	"	217157	33334
Beef	"	342165	30995
Butter	"	43614	8730
Lard	"	40003	4000
Bacon	"	185040	18502
Casings	pkgs	10	150
Cd. Meat	cs	485	1373
" Veget.	"	248	744
Cutlery	pkgs	63	10492
Shoes	"	10	726
Tongues	"	10	224
Oysters	bbls	205	1025
Lub. Oil	"	25	1129
Hardware	pkgs	31	742
Leather	"	30	16870
Furs	"	349	119220
Notions	"	2	974
Confy	"	655	2823
Silverware	"	8	700
Precious Stones	"	32	13350
Jewelry	"	2	251
Belting	"	2	1243
Auto. Veh. & Pts.	"	5	616
Elect. Mtl.	"	8	2464
Machy	"	2	1386
Steel & Mfs.	"	8	354
Copper	"	138	21000
Aluminum	"	144	6000
Brass	"	95	6306
Iron	"	33	3381
Old Rubber	"	7	341
Military Goods	"	189	66221
Dry	"	238	19086
I. R.	"	1	131
Wire	"	16	771
Reclaimed Rubber	"	10	347
Staves	pcs	2351	200
Brushes	pkgs	4	342
Ammunition	cs	1271	47624
Salt	pkgs	100	125
Bronze Powder	cs	50	1000

	BRISTOL			
Dental Goods	pkgs	7		2319
Steel & Mfg.	"	4		331
	DUBLIN			
Engines & Mtl.	pkgs	2		140
	GLASGOW			
Notions	pkgs	1		479
	KOBE			
Liquid Glue	pkgs	2		124
	LONDON			
Books	pkgs	9		845
Drugs	"	8		458
Wool Yarn	"	1		105
Shoes	cs	1		274
Bronze Powder	"	16		887(?)
Motor Cycles & Pts.	pkgs	8		1650
Paintings	"	1		2312
Furs	"	1		750
Printed Matter	"	14		147
Leather	cs	89		31517
Cartridges & Ammunition	"	4200		152400
Films	"	1		100
Machine Patterns	pkgs	3		1500
Machy	"	6		1149
Electrical	"	1		1616
Watch Mtl.	"	2		2489
Elect.	"	4		3200
Auto. Veh. & Pts.	"	4		340
Optical Goods	"	1		1313
Dental	"	10		3962
	MANCHESTER			
Sewing Mchs. & Pts.	pkgs	20		360

97

*The Secretary of State ad interim to the Ambassador in Germany
(Gerard)*²⁸

[Telegram]

WASHINGTON, June 9, 1915—1 p.m.

1803. You are instructed to deliver textually the following note to the Minister of Foreign Affairs:

In compliance with Your Excellency's request I did not fail to transmit to my Government immediately upon their receipt your note of May 28th in reply to my note of May 15th, and your supplementary note of June 1st, setting forth the conclusions so far

²⁸ File No. 763.72/1830; For. Rel., 1915, supp., p. 436.

as reached by the Imperial German Government concerning the attacks on the American steamers *Cushing* and *Gulflight*. I am now instructed by my Government to communicate the following in reply:

The Government of the United States notes with gratification the full recognition by the Imperial German Government, in discussing the cases of the *Cushing* and the *Gulflight*, of the principle of the freedom of all parts of the open sea to neutral ships and the frank willingness of the Imperial German Government to acknowledge and meet its liability where the fact of attack upon neutral ships "which have not been guilty of any hostile act" by German aircraft or vessels of war is satisfactorily established; and the Government of the United States will in due course lay before the Imperial German Government, as it requests, full information concerning the attack on the steamer *Cushing*.

With regard to the sinking of the steamer *Falaba*, by which an American citizen lost his life, the Government of the United States is surprised to find the Imperial German Government contending that an effort on the part of a merchantman to escape capture and secure assistance alters the obligation of the officer seeking to make the capture in respect of the safety of the lives of those on board the merchantman although the vessel had ceased her attempt to escape when torpedoed. These are not new circumstances. They have been in the minds of statesmen and of international jurists throughout the development of naval warfare, and the Government of the United States does not understand that they have ever been held to alter the principles of humanity upon which it has insisted. Nothing but actual forcible resistance or continued efforts to escape by flight when ordered to stop for the purpose of visit on the part of the merchantman has ever been held to forfeit the lives of her passengers or crew. The Government of the United States, however, does not understand that the Imperial German Government is seeking in this case to relieve itself of liability but only intends to set forth the circumstances which led the commander of the submarine to allow himself to be hurried into the course which he took.

Your Excellency's note, in discussing the loss of American lives resulting from the sinking of the steamship *Lusitania*, adverts at some length to certain information which the Imperial German Government has received with regard to the character and outfit of that vessel, and Your Excellency expresses the fear that this information may not have been brought to the attention of the Government of the United States. It is stated in the note that the *Lusitania* was undoubtedly equipped with masked guns, supplied with trained gunners and special ammunition, transporting troops from Canada, carrying a cargo not permitted under the laws of the United States to a vessel also carrying passengers, and serving, in virtual effect, as an auxiliary to the naval forces of Great Britain. Fortunately these are matters concerning which the Government of the United States is in a position to give the Imperial German Government official information. Of the facts alleged in Your Excellency's note, if true, the Government of the United

States would have been bound to take official cognizance in performing its recognized duty as a neutral power and in enforcing its national laws. It was its duty to see to it that the *Lusitania* was not armed for offensive action, that she was not serving as a transport, that she did not carry a cargo prohibited by the statutes of the United States, and that, if in fact she was a naval vessel of Great Britain, she should not receive clearance as a merchantman; and it performed that duty and enforced its statutes with scrupulous vigilance through its regularly constituted officials. It is able, therefore, to assure the Imperial German Government that it has been misinformed. If the Imperial German Government should deem itself to be in possession of convincing evidence that the officials of the Government of the United States did not perform these duties with thoroughness the Government of the United States sincerely hopes that it will submit that evidence for consideration.

Whatever may be the contentions of the Imperial German Government regarding the carriage of contraband of war on board the *Lusitania* or regarding the explosion of that material by the torpedo, it need only be said that in the view of this Government these contentions are irrelevant to the question of the legality of the methods used by the German naval authorities in sinking the vessel.

But the sinking of passenger ships involves principles of humanity which throw into the background any special circumstances of detail that may be thought to affect the cases, principles which lift it, as the Imperial German Government will no doubt be quick to recognize and acknowledge, out of the class of ordinary subjects of diplomatic discussion or of international controversy. Whatever be the other facts regarding the *Lusitania*, the principal fact is that a great steamer, primarily and chiefly a conveyance for passengers, and carrying more than a thousand souls who had no part or lot in the conduct of the war, was torpedoed and sunk without so much as a challenge or a warning, and that men, women and children were sent to their death in circumstances unparalleled in modern warfare. The fact that more than one hundred American citizens were among those who perished made it the duty of the Government of the United States to speak of these things and once more, with solemn emphasis, to call the attention of the Imperial German Government to the grave responsibility which the Government of the United States conceives that it has incurred in this tragic occurrence, and to the indisputable principle upon which that responsibility rests. The Government of the United States is contending for something much greater than mere rights of property or privileges of commerce. It is contending for nothing less high and sacred than the rights of humanity, which every government honours itself in respecting and which no government is justified in resigning on behalf of those under its care and authority. Only her actual resistance to capture or refusal to stop when ordered to do so for the purpose of visit could have afforded the commander of the submarine any justification for so much as putting the lives of those on board the ship in jeopardy. This principle the Government of the United States understands the explicit instructions issued on August 3, 1914, by the Imperial German Admiralty to its commanders at sea to have recog-

nized and embodied, as do the naval codes of all other nations, and upon it every traveller and seaman had a right to depend. It is upon this principle of humanity as well as upon the law founded upon this principle that the United States must stand.

The Government of the United States is happy to observe that Your Excellency's note closes with the intimation that the Imperial German Government is willing, now as before, to accept the good offices of the United States in an attempt to come to an understanding with the Government of Great Britain by which the character and conditions of the war upon the sea may be changed. The Government of the United States would consider it a privilege thus to serve its friends and the world. It stands ready at any time to convey to either government any intimation or suggestion the other may be willing to have it convey and cordially invites the Imperial German Government to make use of its services in this way at its convenience. The whole world is concerned in anything that may bring about even a partial accommodation of interests or in any way mitigate the terrors of the present distressing conflict.

In the meantime, whatever arrangement may happily be made between the parties to the war, and whatever may in the opinion of the Imperial German Government have been the provocation or the circumstantial justification for the past acts of its commanders at sea, the Government of the United States confidently looks to see the justice and humanity of the Government of Germany vindicated in all cases where Americans have been wronged or their rights as neutrals invaded.

The Government of the United States therefore very earnestly and very solemnly renews the representations of its note transmitted to the Imperial German Government on the 15th of May, and relies in these representations upon the principles of humanity, the universally recognized understandings of international law, and the ancient friendship of the German nation.

The Government of the United States cannot admit that the proclamation of a war zone from which neutral ships have been warned to keep away may be made to operate as in any degree an abbreviation of the rights either of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality. It does not understand the Imperial German Government to question those rights. It understands it, also, to accept as established beyond question the principle that the lives of non-combatants cannot lawfully or rightfully be put in jeopardy by the capture or destruction of an unresisting merchantman, and to recognize the obligation to take sufficient precaution to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag. The Government of the United States therefore deems it reasonable to expect that the Imperial German Government will adopt the measures necessary to put these principles into practice in respect of the safeguarding of American lives and American ships, and asks for assurances that this will be done.

LANSING

*The Secretary of State to the Ambassador in Germany (Gerard)*³⁰

[Telegram]

WASHINGTON, June 24, 1915—12 noon.

1868. You are instructed to present the following note to the German Minister of Foreign Affairs:

"I have the honor to inform Your Excellency that I duly communicated to my Government your note of the 7th instant on the subject of the claim presented in my note of April 3rd last,³¹ on behalf of the owners and captain of the American sailing vessel *William P. Frye* in consequence of her destruction by the German auxiliary cruiser *Prinz Eitel Friedrich*.

In reply I am instructed by my Government to say that it has carefully considered the reasons given by the Imperial German Government for urging that this claim should be passed upon by the German prize court instead of being settled by direct diplomatic discussion between the two Governments, as proposed by the Government of the United States, and that it regrets to find that it cannot concur in the conclusions reached by the Imperial German Government.

As pointed out in my last note to you on this subject, dated April 30th,³² the Government of the United States has considered that the only question under discussion was the method which should be adopted for ascertaining the amount of the indemnity to be paid under an admitted liability, and it notes with surprise that in addition to this question the Imperial German Government now desires to raise some questions as to the meaning and effect of the treaty stipulations under which it has admitted its liability.

If the Government of the United States correctly understands the position of the Imperial German Government as now presented, it is that the provisions of article 13 of the treaty of 1799 between the United States and Prussia,³³ which is continued in force by the treaty of 1828,³⁴ justified the Commander of the *Prinz Eitel Friedrich* in sinking the *William P. Frye*, although making the Imperial German Government liable for the damages suffered in consequence, and that inasmuch as the treaty provides no specific method for ascertaining the amount of indemnity to be paid, that question must be submitted to the German prize court for determination.

The Government of the United States, on the other hand, does not find in the treaty stipulations mentioned any justification for the sinking of the *Frye*, and does not consider that the German prize court has any jurisdiction over the question of the amount of indemnity to be paid by the Imperial German Government on account of its admitted liability for the destruction of an American vessel on the high seas.

³⁰ File No. 462.11Se8/33; For. Rel., 1915, supp., p. 450.

³¹ See Document 60.

³² See document 71.

³³ Vol. I, document 40, p. 226.

³⁴ Vol. I, document 80, p. 332.

You state in your note of the 7th instant that article 13 of the above mentioned treaty of 1799 "expressly reserves to the party at war the right to stop the carrying of contraband and to detain the contraband; it follows then that if it cannot be accomplished in any other way, the stopping of the supply may in the extreme case be effected by the destruction of the contraband and of the ship carrying it."

The Government of the United States cannot concur in this conclusion. On the contrary it holds that these treaty provisions do not authorize the destruction of a neutral vessel in any circumstances. By its express terms the treaty prohibits even the detention of a neutral vessel carrying contraband if the master of the vessel is willing to surrender the contraband. Article 13 provides:

"in the case supposed of a vessel stopped for articles of contraband, if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage."

In this case the admitted facts show that pursuant to orders from the Commander of the German cruiser, the master of the *Frye* undertook to throw overboard the cargo of that vessel, but that before the work of delivering out the cargo was finished the vessel with the cargo was sunk by order of the German commander.

For these reasons, even if it be assumed, as Your Excellency has done, that the cargo was contraband, your contention that the destruction of the vessel was justified by the provisions of article 13 does not seem to be well founded. The Government of the United States has not thought it necessary in the discussion of this case to go into the question of the contraband or non-contraband character of the cargo. The Imperial German Government has admitted that this question makes no difference so far as its liability for damages is concerned, and the result is the same so far as the justification for the sinking of the vessel is concerned. As shown above, if we assume that the cargo was contraband, the master of the *Frye* should have been allowed to deliver it out, and the vessel should have been allowed to proceed on her voyage.

On the other hand, if we assume that the cargo was non-contraband, the destruction either of the cargo or the vessel could not be justified in the circumstances of this case under any accepted rule of international law. Attention is also called to the provisions of article 12 of the treaty of 1785 between the United States and Prussia,³⁵ which like article 13 of the treaty of 1799 was continued in force by article 12 of the treaty of 1828. So far as the provisions of article 12 of the treaty of 1785 apply to the question under consideration, they are as follows:

"If one of the contracting parties should be engaged in war with any other Power, the free intercourse and commerce of the subjects or citizens of the party remaining neuter with the

³⁵ Vol. I, document 22, p. 160.

belligerent Powers shall not be interrupted. On the contrary, in that case, as in full peace, the vessels of the neutral party may navigate freely to and from the ports and on the coasts of the belligerent parties, free vessels making free goods, insomuch that all things shall be adjudged free which shall be on board any vessel belonging to the neutral party, although such things belong to an enemy of the other."

It seems clear to the Government of the United States, therefore, that whether the cargo of the *Frye* is regarded as contraband or as non-contraband, the destruction of the vessel was, as stated in my previous communication on this subject, "a violation of the obligations imposed upon the Imperial German Government under existing treaty stipulations between the United States and Prussia."

For these reasons the Government of the United States must disagree with the contention which it understands is now made by the Imperial German Government that an American vessel carrying contraband may be destroyed without liability or accountability beyond the payment of such compensation for damages as may be fixed by a German prize court. The issue thus presented arises on a disputed interpretation of treaty provisions, the settlement of which requires direct diplomatic discussion between the two Governments, and cannot properly be based upon the decision of the German prize court, which is in no way conclusive or binding upon the Government of the United States.

Moreover, even if no disputed question of treaty interpretation was involved, the admission by the Imperial German Government of its liability for damages for sinking the vessel would seem to make it unnecessary, so far as this claim is concerned, to ask the prize court to decide "whether the destruction of the ship and cargo was legal, and whether and under what conditions the property sunk was liable to confiscation," which, you state in your note dated June 7th, are questions which should be decided by the prize court. Insofar as these questions relate to the cargo, they are outside of the present discussion, because, as pointed out in my previous note to you on the subject dated April 30th, "the claim under discussion does not include damages for the destruction of the cargo."

The real question between the two Governments is what reparation must be made for a breach of treaty obligations, and that is not a question which falls within the jurisdiction of a prize court.

In my first note on the subject,^{35a} the Government of the United States requested that "full reparation be made by the Imperial German Government for the destruction of the *William P. Frye*." Reparation necessarily includes an indemnity for the actual pecuniary loss sustained, and the Government of the United States takes this opportunity to assure the Imperial German Government that such an indemnity, if promptly paid, will be accepted as satisfactory reparation, but it does not rest with a prize court to determine what reparation should be made, or what reparation would be satisfactory to the Government of the United States.

Your Excellency states in your note of June 7th that in the event the prize court should not grant indemnity in accordance with the

^{35a} See document 60.

treaty requirements, the German Government would not hesitate to arrange for equitable indemnity, but it is also necessary that the Government of the United States should be satisfied with the amount of the indemnity, and it would seem to be more appropriate and convenient that an arrangement for equitable indemnity should be agreed upon now, rather than later. The decision of the prize court, even on the question of the amount of indemnity to be paid, would not be binding or conclusive on the Government of the United States.

The Government of the United States also dissents from the view expressed in your note that "there would be no foundation for a claim of the American Government unless the prize courts should not grant indemnity in accordance with the treaty." The claim presented by the American Government is for an indemnity for a violation of a treaty, in distinction from an indemnity in accordance with the treaty, and therefore is a matter for adjustment by direct diplomatic discussion between the two Governments, and is in no way dependent upon the action of a German prize court.

For the reasons above stated, the Government of the United States cannot recognize the propriety of submitting the claim presented by it on behalf of the owners and captain of the *Frye* to the German prize court for settlement.

The Government of the United States is not concerned with any proceedings which the Imperial German Government may wish to take on "other claims of neutral and enemy interested parties," which have not been presented by the Government of the United States, but which you state in your note of June 7th make prize court proceedings in this case indispensable, and it does not perceive the necessity for postponing the settlement of the present claim pending the consideration of those other claims by the prize court.

The Government of the United States, therefore, suggests, that the Imperial German Government reconsider the subject in the light of these considerations, and because of the objections against resorting to the prize court, the Government of the United States renews its former suggestion that an effort be made to settle this claim by direct diplomatic negotiations."

Note will be published morning newspapers 28th.

LANSING

99

*The Austro-Hungarian Minister of Foreign Affairs (Burian) to the American Ambassador (Penfield)*³⁶

No. 59,465/7

The far reaching effects which result from the fact that for a long time the traffic in munitions of war to the greatest extent has been carried on between the United States of America on the one hand and Great Britain and its allies on the other, while Austria-

³⁶ File No. 763.72111 Em 1/13; For. Rel., 1915, supp., p. 791.

Transmitted by the American Ambassador in despatch no. 608, July 2, 1915; received July 20. A telegraphic version had been cabled on July 1.

Hungary as well as Germany have been absolutely excluded from the American market, have from the very beginning attracted the most serious attention of the Imperial and Royal Government.

If now the undersigned permits himself to address himself to this question, with which the Washington Cabinet has been concerned until now only with the Imperial German Government he follows the injunction of imperative duty to protect the interests intrusted to him from further serious damage which results from this situation as well to Austria-Hungary as to the German Empire.

Although the Imperial and Royal Government is absolutely convinced that the attitude of the Federal Government in this connection emanates from no other intention than to maintain the strictest neutrality and to conform to the letter of the provisions of international treaties, nevertheless the question arises whether the conditions, as they have developed during the course of the war, certainly independently of the will of the Federal Government, are not such as in effect thwart the intentions of the Washington Cabinet or even actually oppose them. In the affirmative case,—and affirmation, in the opinion of the Imperial and Royal Government, can not be doubted,—then immediately follows the further question whether it would not seem possible, even imperative, that appropriate measures be adopted toward bringing into full effect the desire of the Federal Government to maintain an attitude of strict parity with respect to both belligerent parties. The Imperial and Royal Government does not hesitate to answer also this question unqualifiedly in the affirmative.

It cannot certainly have escaped the attention of the American Government, which has so eminently cooperated in the work of The Hague, that the meaning and essence of neutrality are in no way exhaustively dealt with in the fragmentary provisions of the pertinent treaties. If one takes into consideration particularly the genesis of Art. 7 of the fifth and thirteenth Conventions respectively, upon which the Federal Government clearly relies in the present case, and the wording of which, as is in no way to be denied, affords it a formal pretext for the toleration of trade in munitions of war now being carried on by the United States, it is only necessary, in order to measure the true spirit and import of this provision—which moreover appears to have been departed from in the prevention of the delivery of vessels of war and in the prevention of certain deliveries to vessels of war of belligerent nations—to point out the fact that the detailed privileges conceded to neutral States in the sense of the preamble to the above-mentioned convention are limited by the requirements of neutrality which conform to the universally recognized principles of international law.

According to all authorities on international law who concern themselves more particularly with the question now under consideration, a neutral Government may not permit traffic in contraband of war to be carried on without hindrance when this traffic assumes such a form or such dimensions that the neutrality of the nation becomes involved thereby.

If any one of the various criteria which have been laid down in science in this respect be used as a basis in determining the permissibility of commerce in contraband, one reaches the conclusion from each of these criteria that the exportation of war requisites from the United States, as is being carried on in the present war, is not to be brought into accord with the demands of neutrality.

The question now before us is surely not whether American industries which are engaged in the manufacture of war material should be protected from loss in the export trade that was theirs in times of peace. Rather has that industry soared to unimagined heights. In order to turn out the huge quantities of arms, ammunition and other war material of every description ordered in the past months by Great Britain and her allies from the United States, not only the full capacity of the existing plants but also their transformation and enlargement and the creation of new large plants, as well as a flocking of workmen of all trades into that branch of industry, in brief far reaching changes of economic life encompassing the whole country became necessary. From no quarter then can there come any question of the right of the American Government to prohibit through the issuance of an embargo that enormous exportation of war implements that is openly carried on and besides is commonly known to be availed of by only one of the parties to the war. If the Federal Government would exercise that power it possesses, it could not lay itself open to blame, if, in order to keep within the requirements of the law of the land, it adopted the course of enacting a law. For while the principle obtains that a neutral State may not alter the rules in force within its province concerning its attitude toward belligerents while war is being waged, yet this principle, as clearly appears from the Preamble to the 13th Hague Convention suffers an exception in the case "*où l'expérience acquise en démontrerait la nécessité pour la sauvegarde de ses droits.*" [Where experience has shown the necessity thereof for the protection of its rights.]

Moreover, this case is already established for the American Government through the fact that Austria-Hungary, as well as Germany, is cut off from all commercial intercourse with the United States of America without the existence of a legal prerequisite therefor—a legally constituted blockade.

In reply to the possible objection that, notwithstanding the willingness of American industry to furnish merchandise to Austria-Hungary and Germany as well as to Great Britain and her allies, it is not possible for the United States of America to trade with Austria-Hungary and Germany as the result of the war situation, it may be pointed out that the Federal Government is undoubtedly in a position to improve the situation described. It would be amply sufficient to confront the opponents of Austria-Hungary and Germany with the possibility of the prohibition of the exportation of foodstuffs and raw materials in case legitimate commerce in these articles between the Union and the two Central Powers should not be allowed. If the Washington Cabinet should find itself prepared for an action in this sense, it would not only be following the tradition always held in such high regard in the United States of contending for the freedom of legitimate maritime commerce, but would also earn the high merit of nullifying the wanton efforts of the enemies of Austria-Hungary and Germany to use hunger as an ally.

The Imperial and Royal Government may therefore, in the spirit of the excellent relations which have never ceased to exist between the Austro-Hungarian Monarchy and the United States of America, appeal to the Federal Government in sincere friendship, in view of the expositions here set forth, to subject its previously adopted standpoint in this so important question to a mature reconsideration. A revision of the attitude observed by the Government of the Union in the sense of the views advocated by the Imperial and Royal Government would, according to the convictions of the latter, be not only within the bounds of the rights and obligations of a neutral government but also in close keeping with those principles dictated by true humanity and love of peace which the United States has ever written on its banner.

The undersigned has the honor to ask the good offices of His Excellency, the Ambassador Extraordinary and Plenipotentiary of the United States of America, Mr. Frederic Courtland Penfield, to convey the foregoing by telegram to the attention of the Washington Cabinet; he avails himself [etc.]

VIENNA, June 29, 1915.

BURIAN

100

*The Secretary of State to the President*⁸⁸

July 8, 1915.

DEAR MR. PRESIDENT: I think that we could dismiss the Austrian statement regarding the sale of arms and ammunition with an

⁸⁸ File No. 763.72111 Em 1/26.

acknowledgment, as you suggest in your note of yesterday, but it seems to me that it offers an excellent opportunity to make a full and clear statement of our attitude. While the communication would be addressed to Vienna, we could by making the correspondence public present the matter in a favorable and, I believe, convincing way to the American people.

Home consumption would be the real purpose; an answer to Austria the nominal purpose.

Convinced of the strength of our position and the desirability of placing the case frankly before the people in order to remove the opposition to sales of war materials, which many persons have on moral grounds and not because of pro-German sympathy, it seems to me advisable to prepare an answer to the Austrian communication, which I will submit to you as soon as it is drafted.

Faithfully yours,

ROBERT LANSING

101

*The Ambassador in Germany (Gerard) to the Secretary of State*³⁹

[Telegram]

BERLIN, July 8, 1915.

2565

[Received July 11—7.15 a.m.⁴⁰]

Foreign Office, Berlin, July 8, 1915. The undersigned has the honor to make the following reply to the note of His Excellency Mr. James W. Gerard, Ambassador of the United States of America, dated the 10th [9th] ultimo, Foreign Office number 3814, on the subject of the impairment of American interests by the German submarine war:

The Imperial Government has learned with satisfaction from the note how earnestly the Government of the United States is concerned in seeing the principles of humanity realized in the present war. Also, this appeal meets with full sympathy in Germany and the Imperial Government is quite willing to permit its statements and decisions in the case under consideration to be governed by the principles of humanity just as it has done always.

The Imperial Government welcomed it with gratitude when the American Government in its note of May 15 [13], 1915, itself recalled that Germany had always permitted itself to be governed by the principles of progress and humanity in dealing with the law of maritime war. Since the time when Frederick the Great negotiated with John Adams, Benjamin Franklin and Thomas Jefferson the Treaty of Friendship and Commerce of September 10, 1785, between Prussia

³⁹ File No. 763.72/1940; For. Rel., 1915, supp., p. 463.

⁴⁰ Telegram in five sections.

and the Republic of the West, German and American statesmen have in fact always stood together in the struggle for the freedom of the seas and for the protection of peaceable trade. In the international proceedings which have since been conducted for the regulation of the right of maritime war Germany and America have jointly advocated progressive principles, especially the abolishment of the right of capture at sea and the protection of the interests of neutrals. Even at the beginning of the present war the German Government immediately declared its willingness, in response to the proposal of the American Government, to ratify the Declaration of London and thereby to subject itself, in the use of its naval forces, to all the restrictions provided therein in favor of neutrals. Germany has likewise been always tenacious of the principle that war should be conducted against the armed and organized forces of the enemy country but that the civilian population of the enemy must be spared as far as possible from the measures of war. The Imperial Government cherishes the definite hope that some way will be found when peace is concluded, or perhaps earlier, to regulate the law of maritime war in a manner guaranteeing the freedom of the seas, and will welcome it with gratitude and satisfaction if it can work hand in hand with the American Government on that occasion.

If in the present war the principles which should be the ideal of the future have been traversed more and more the longer its duration the German Government has no guilt therein.

It is known to the American Government how Germany's adversaries, by completely paralyzing peaceable traffic between Germany and the neutral countries, have aimed from the very beginning, and with increasing lack of consideration, at the destruction not so much of the armed forces as the life of the German nation, repudiating in so doing all the rules of international law and disregarding all the rights of neutrals. On November 3, 1914, England declared the North Sea to be a war area and by planting poorly anchored mines and the stoppage and capture of vessels made passage extremely dangerous and difficult for neutral shipping, so that it is actually blockading neutral coasts and ports contrary to all international law. Long before the beginning of the submarine war England practically completely intercepted legitimate neutral navigation to Germany also. Thus Germany was driven to submarine war on trade. On November 16, 1914, the English Prime Minister declared in the House of Commons that it was one of England's principal tasks to prevent food for the German population from reaching Germany by way of neutral ports. Since March 1 of this year England has been taking from neutral ships without further formality all merchandise proceeding to Germany as well as all merchandise coming from Germany even when neutral property. Just as was the

case with the Boers the German people is now to be given the choice of perishing from starvation with its women and children or of relinquishing its independence.

While our enemies thus loudly and openly have proclaimed war without mercy until our utter destruction, we are conducting war in self-defense for our national existence and for the sake of peace of assured permanency. We have been obliged to adopt submarine warfare to meet the declared intentions of our enemies and the method of warfare adopted by them in contravention of international law.

With all its efforts in principle to protect neutral life and property from damage as much as possible the German Government recognized unreservedly in its memorandum of February 4 that the interests of neutrals might suffer from submarine warfare. However, the American Government will also understand and appreciate that in the fight for existence which has been forced upon Germany by its adversaries and announced by them it is the sacred duty of the Imperial Government to do all within its power to protect and to save the lives of German subjects. If the Imperial Government were derelict in these, its duties, it would be guilty before God and history of the violation of those principles of the highest humanity which are the foundation of every national existence.

The case of the *Lusitania* shows with horrible clearness to what jeopardizing of human lives the manner of conducting war employed by our adversaries leads. In most direct contradiction of international law all distinctions between merchantmen and war vessels have been obliterated by the order to British merchantmen to arm themselves and to ram submarines, and the promise of rewards therefor; and neutrals who use merchantmen as travelers have thereby been exposed in an increasing degree to all the dangers of war. If the commander of the German submarine which destroyed the *Lusitania* had caused the crew and travelers to put out in boats before firing the torpedo this would have meant the sure destruction of his own vessel. After the experiences in the sinking of much smaller and less seaworthy vessels it was to be expected that a mighty ship like the *Lusitania* would remain above water long enough even after the torpedoing to permit the passengers to enter the ship's boats. Circumstances of a very peculiar kind, especially the presence on board of large quantities of highly explosive materials, defeated this expectation. In addition, it may be pointed out that if the *Lusitania* had been spared thousands of cases of ammunition would have been sent to Germany's enemies and thereby thousands of German mothers and children robbed of their supporters.

In the spirit of friendship with which the German nation has been imbued towards the Union and its inhabitants since the earliest days of its existence the Imperial Government will always be ready to do all it can, during the present war also, to prevent the jeopardizing of the lives of American citizens.

The Imperial Government therefore repeats the assurances that American ships will not be hindered in the prosecution of legitimate shipping and the lives of American citizens on neutral vessels shall not be placed in jeopardy.

In order to exclude any unforeseen dangers to American passenger steamers made possible in view of the conduct of maritime war on the part of Germany's adversaries the German submarines will be instructed to permit the free and safe passage of such passenger steamers when made recognizable by special markings and notified reasonable time in advance. The Imperial Government, however, confidentially [*confidently*] hopes that the American Government will assume the guarantee that these vessels have no contraband on board. The details of the arrangements for the unhampered passage of these vessels would have to be agreed upon by the naval authorities of both sides.

In order to furnish adequate facilities for travel across the Atlantic Ocean for American citizens the German Government submits for consideration [a proposal] to increase the number of available steamers by installing in the passenger service a reasonable number of neutral steamers, the exact number to be agreed upon, under the American flag under the same conditions as the American steamers above mentioned.

The Imperial Government believes that it can assume that in this manner adequate facilities for travel across the Atlantic Ocean can be afforded American citizens. There would therefore appear to be no compelling necessity for American citizens to travel to Europe in time of war on ships carrying an enemy flag. In particular the Imperial Government is unable to admit that American citizens can protect an enemy ship through the mere fact of their presence on board. Germany merely followed England's example when it declared part of the high seas an area of war. Consequently accidents suffered by neutrals on enemy ships in this area of war cannot well be judged differently from accidents to which neutrals are at all times exposed at the seat of war on land when they betake themselves into dangerous localities in spite of previous warning.

If, however, it should not be possible for the American Government to acquire an adequate number of neutral passenger steamers, the Imperial Government is prepared to interpose no objections to the placing under the American flag by the American Government

of four enemy passenger steamers for the passenger traffic between America and England. The assurances of "free and safe" passage for American passenger steamers would then be extended to apply under the identical pre-conditions to these formerly hostile passenger ships.

The President of the United States has declared his readiness, in a way deserving of thanks, to communicate and suggest proposals to the Government of Great Britain with particular reference to the alteration of maritime war. The Imperial Government will always be glad to make use of the good offices of the President and hopes that his efforts in the present case, as well as in the direction of the lofty ideal of the freedom of the seas, will lead to an understanding.

The undersigned requests the Ambassador to bring the above to the knowledge of the American Government and avails himself [etc.] Von Jagow.

GERARD

102

*The President to the Secretary of State*⁴¹

13 July, 1915.

MY DEAR MR. SECRETARY: I have of course been giving a great deal of thought to the German note^{41a} since I received the official text of it. According to my suggestion in my last letter, I am now writing to tell you how the reply lies in my mind in outline.

But, first, certain questions:

Do you think it worth while to take notice of and refute their arguments about the arming of merchantmen destroying the difference between public and private vessels; about this, that, and the other alleged utterance of English ministers or order of the English Government having made their recent course necessary and justifiable; etc., etc., or do you think we had better just speak, and briefly at that, to the merits of the case, in bulk, as they present it,—for example as follows:

1. We cannot discuss special arrangements whereby a few vessels may enjoy the rights all are entitled to, nor admit that such arrangements would be in any way adequate to meet the contentions of this Government.

2. We are not merely contending for the rights of Americans to cross the seas as they will without fear of deliberate breaches of international law, but conceive ourselves as speaking for the rights of neutrals everywhere, rights in which the whole world is interested and which every nation must wish to see kept inviolable.

⁴¹ File No. 763.72/1967½.

^{41a} See document 101, *supra*.

3. These rights the Imperial German Government itself recognizes in theory, professes itself anxious to see safeguarded, and is surely ready to admit as quite as vital to itself, both now and in the years to come, as to any other nation.

4. Violations of neutral rights and of the general obligations of international law by the Government of Great Britain we of course cannot discuss with the German Government; but will discuss with the British Government, so far as they affect the rights of Americans. We will, moreover, as already intimated to the German Government, be glad to be the means of conveying any suggestions as to modifications of methods of warfare which any one of the belligerents may wish conveyed to the others.

5. We note with interest the fact that in the more recent operations of German submarines it has been feasible to keep within the limits and restrictions of international practice and to act upon the general principles upon which we have insisted. We can see no reason, therefore, why there is not opened a way of immediate agreement between the two governments and of such action as will sufficiently safeguard all legitimate interests and enable the German Admiralty to return to the practice long established and fully recognized in their own instructions already more than once referred to.

I am not selecting words; I am merely trying to outline an argument. What do you think of it?

And what do you think ought to be the concluding terms of demand, that will bring the correspondence to a definite issue? Two things are plain to me, in themselves inconsistent, viz. that our people want this thing handled in a way that will bring about a definite settlement without endless correspondence, and that they will also expect us not to hasten an issue or so conduct the correspondence as to make an unfriendly issue inevitable.

I shall await your own suggestions with the greatest interest. When I have had a chance to see them and reflect upon them, I will confer with you in person, preferably in Washington where we will have all the documents we wish at hand, and all the other persons we might wish to consult with regard to particular phases of this important matter.

With warm regard,
Faithfully Yours,

[WOODROW WILSON]

103

*The Secretary of State to the President*⁴²

July 14, 1915.

MY DEAR MR. PRESIDENT: I have been making a number of notes on the German reply of the 8th in an endeavor to crystallize my

⁴² File No. 763.72/1969½a.

thoughts as to the answer which should be made. I am loath to send you these notes in their present shape as I think that you would find them more useful in a digested form.

The impression which I have gained from careful reading and rereading of the German note is that the thought of "home consumption" entered largely into its composition, while at the same time the German Government failed to appreciate public temper in this country. I think that considerable allowance should be made for the sarcastic tone of certain phrases because written for German readers and to meet the public demand in Germany.

We are to an extent bound to respond to a similar chord in this country. It would be easy to understand American public opinion if the press accurately reflected it. But I am not sure in my own mind that it does. As I read the state of mind of the vast majority of the people it is that they do not want war, that no war spirit exists, but at the same time they want the Government not to recede a step from its position but to compel Germany to submit to our demands. Of course this attitude, if I read it aright, is most difficult to meet. To carry out both ideas is well nigh impossible. Of course I do not feel that public opinion should dictate the Government's action but it is well to consider it.

As to the reply itself I feel that the German note's comments on the action of Great Britain can be dismissed with a statement that they are irrelevant to the subject at issue. That will dispose of nearly half of the note. In the next place I think that we can refuse to discuss a *modus vivendi* for the future until the general principles involved have been considered and the *Lusitania* matter satisfactorily adjusted so far as it is possible. The setting aside of these two subjects in our reply will materially shorten it, and I believe that brevity will impress the German Government with the earnestness of our purpose to insist on our rights (an impression which I have sometimes felt they did not have) and will also cause a feeling in this country that this Government does not intend to prolong the controversy indefinitely. I think in the present state of the discussion a concise and direct statement will be most effective.

As I reached this point your letter to me of the 13th arrived. After reading it I have decided to enclose my undigested notes⁴³ calling particular attention to Note 13.

I will go over your letter with care and send you any comments which may suggest themselves. I think that you will find on examining the enclosed notes our minds have worked in much the same way.

In order that I may not forward to you at Cornish further memoranda, which might arrive after your departure, can you indicate to me about the time you expect to return here?

I am [etc.]

ROBERT LANSING

⁴³ Not printed.

104

The Secretary of State to the Ambassador in Great Britain (Page) ⁴³

[Telegram]

WASHINGTON, July 14, 1915—5 p.m.

1848. In order avoid any misunderstanding as to attitude of Government of United States in regard to prize court proceedings in cases involving American interests, inform British Government that in view of differences which are understood to exist between the two Governments as to the principles of law applicable in these cases, the Government of the United States desires to make clear to the British Government that insofar as the interests of American citizens are concerned, it will insist upon their rights under the hitherto established principles and rules of international law governing neutral trade in time of war, without modification or limitation by orders-in-council or other municipal legislation by Great Britain, and it will not recognize the validity of proceedings taken in prize court under restraints imposed by British municipal law in derogation of their rights.

Inform Union and report any suggestions by him.

LANSING

105

The Secretary of State to the Ambassador in Great Britain (Page) ⁴⁴

[Telegram]

WASHINGTON, July 15, 1915.

1852. It is brought to the attention of the Department that the Steamship *Neches*, of American register, sailing from Rotterdam to a port of the United States, carrying a general cargo, after being detained at the Downs, was brought to London where it was made by the British authorities to discharge cargo, the property of American citizens.

The ground advanced to sustain this action, it appears, is that the goods originated in part at least in Belgium and fall, therefore, within the provisions of paragraph 4 of the Order in Council of March 11th,⁴⁵ which stipulates that every merchant vessel sailing from a port other than a German port carrying goods of enemy origin may be required to discharge such goods in a British or allied port. The Government of the United States very earnestly reiter-

⁴³ File No. 763.72112/1343a; For. Rel., 1915, supp., p. 472.

⁴⁴ File No. 300.115/4301a; For. Rel., 1915, supp., p. 472.

⁴⁵ See document 54.

ates its position with respect to this Order in Council as set forth in its instruction to the Embassy of March 30th, 1915,⁴⁶ and regards the international invalidity of the Order as plainly illustrated by the present instance of the seizure of American owned goods passing from the neutral port of Rotterdam to a neutral port of the United States, merely because the goods came originally from territory in the possession of Great Britain's enemy.

The Department desires that you inform the Foreign Office courteously, but plainly, that the legality of this seizure cannot be admitted, and that in the view of this Government it violates the right of the citizens of one neutral to trade with those of another, as well as with those of belligerents except in contraband or in violation of a legal blockade of an enemy seaport. The Department must insist upon the rights of American owners of goods to bring them out of Holland in due course in neutral ships, even though such goods may have come originally from the territories of Great Britain's enemies. Therefore, you will communicate with Foreign Office in the sense of the foregoing and insist that goods taken from the *Neches* which are the property of American citizens shall be expeditiously released to be forwarded to their destination, and request to be advised at the earliest convenient moment of the British Government's intended course in this matter.

LANSING

106

The Secretary of State to the President ⁴⁷

July 15, 1915.

MY DEAR MR. PRESIDENT: *In re* your letter of the 13th as to an outline for a reply to the German note may I offer the following comments:

I do not think that it is at all essential to refute the German allegation that the *Lusitania* was to all intents a public ship; at the same time it presents an argument which to the average man appears to have considerable force, and, if it is not met, it may be thought that it could not be answered. There is always danger, I think, in omitting reference to an assertion, since it may be construed into an admission. You will see that my Note 6 (July 11th) deals with the question.

Your paragraphs numbered 1, 2 and 3 seem to me to treat the *modus vivendi* proposed by Germany in just the right way, and put

⁴⁶ Document 58.

⁴⁷ File No. 763.72/1967½.

the subject on the ground of principle, which is a higher ground than the one I suggested and, therefore, a better one.

Paragraph 4, I think, presents the exact way to deal with the charges made against Great Britain. The subject should be stated to be irrelevant to the issue as well as improper for discussion with Germany. The last sentence in the paragraph might possibly obtain greater emphasis by being placed at the end of our answer and show a friendly disposition.

Paragraph 5 might be used in the answer, to emphasize our disappointment that the German Government does not in its note agree to do the very thing it has been doing for the past two months. Possibly this could be used at the beginning in complaining that the rights of Americans are not acknowledged.

I think that you will find that the view of public sentiment contained in the next to the last paragraph in your letter was identical with that expressed in the first part of my letter of yesterday. I am sure the people do not want war with Germany, and I am equally sure that they want the Government to insist firmly on its rights. As you say, the two things are "inconsistent." How they can be brought into harmony is the chief problem.

This brings up the question, which you ask, as to "the concluding terms of demand." Frankly I am not prepared yet to answer that question. I would prefer to wait until the note is drafted in a tentative form and see what demands would be consistent and appropriate. Of course the demands we make will be the most difficult part of the note. Is it possible to be firm and at the same time to compromise?

I think that in formulating the demands the possible consequences must be considered with the greatest care. In case of a flat refusal what will happen? In case of counter proposals what then? Should the demands be so worded as to admit of only "Yes" or "No" as an answer, or should a loophole be given for counter proposals? Can we take a course which will permit further correspondence? These are the questions which are running through my mind and I have not as yet been able to answer them. I wish more time to consider them.

I am now working on a tentative draft, which will put my ideas in a more concrete form than the Notes which I sent you.

Not being sure whether you kept a copy of your letter of the 13th I am returning it to you so that this letter will be intelligible. I have retained a copy.

Faithfully yours,

ROBERT LANSING

*The Secretary of State to the Ambassador in Germany (Gerard)*⁴⁸

[Telegram]

WASHINGTON, July 21, 1915—9 p.m.

1981. You are instructed to deliver textually the following note to the Minister for Foreign Affairs:

The note of the Imperial German Government dated the 8th of July, 1915, has received the careful consideration of the Government of the United States and it regrets to be obliged to say that it has found it very unsatisfactory because it fails to meet the real differences between the two Governments and indicates no way in which the accepted principles of law and humanity may be applied in the grave matter in controversy, but proposes, on the contrary, arrangements for a partial suspension of those principles which virtually set them aside.

The Government of the United States notes with satisfaction that the Imperial German Government recognizes without reservation the validity of the principles insisted on in the several communications which this Government has addressed to the Imperial German Government with regard to its announcement of a war zone and the use of submarines against merchantmen on the high seas,—the principle that the high seas are free, that the character and cargo of a merchantman must first be ascertained before she can lawfully be seized or destroyed, and that the lives of non-combatants may in no case be put in jeopardy unless the vessel resists or seeks to escape after being summoned to submit to examination; for a belligerent act of retaliation is *per se* an act beyond the law, and the defense of an act as retaliatory is an admission that it is illegal.

The Government of the United States is, however, keenly disappointed to find that the Imperial German Government regards itself as in large degree exempt from the obligation to observe these principles, even where neutral vessels are concerned, by what it believes the policy and practice of the Government of Great Britain to be in the present war with regard to neutral commerce. The Imperial German Government will readily understand that the Government of the United States cannot discuss the policy of the Government of Great Britain with regard to neutral trade except with that Government itself, and that it must regard the conduct of other belligerent governments as irrelevant to any discussion with the Imperial German Government of what this Government regards as grave and unjustifiable violations of the rights of American citizens by German naval commanders. Illegal and inhuman acts, however justifiable they may be thought to be against an enemy who is believed to have acted in contravention of law and humanity, are manifestly indefensible when they deprive neutrals of their acknowledged rights, particularly when they violate the right to life itself. If a belligerent cannot retaliate against an enemy without injuring the lives of neutrals, as well as their property, humanity, as well as justice

⁴⁸ File No. 763.72/1940; For. Rel., 1915, supp., p. 480.

and a due regard for the dignity of neutral powers, should dictate that the practice be discontinued. If persisted in it would in such circumstances constitute an unpardonable offense against the sovereignty of the neutral nation affected. The Government of the United States is not unmindful of the extraordinary conditions created by this war or of the radical alterations of circumstance and method of attack produced by the use of instrumentalities of naval warfare which the nations of the world cannot have had in view when the existing rules of international law were formulated, and it is ready to make every reasonable allowance for these novel and unexpected aspects of war at sea; but it cannot consent to abate any essential or fundamental right of its people because of a mere alteration of circumstance. The rights of neutrals in time of war are based upon principle, not upon expediency, and the principles are immutable. It is the duty and obligation of belligerents to find a way to adapt the new circumstances to them.

The events of the past two months have clearly indicated that it is possible and practicable to conduct such submarine operations as have characterized the activity of the Imperial German navy within the so-called war zone in substantial accord with the accepted practices of regulated warfare. The whole world has looked with interest and increasing satisfaction at the demonstration of that possibility by German naval commanders. It is manifestly possible, therefore, to lift the whole practice of submarine attack above the criticism which it has aroused and remove the chief causes of offense.

In view of the admission of illegality made by the Imperial Government when it pleaded the right of retaliation in defense of its acts, and in view of the manifest possibility of conforming to the established rules of naval warfare, the Government of the United States cannot believe that the Imperial Government will longer refrain from disavowing the wanton act of its naval commander in sinking the *Lusitania* or from offering reparation for the American lives lost, so far as reparation can be made for a needless destruction of human life by an illegal act.

The Government of the United States, while not indifferent to the friendly spirit in which it is made, cannot accept the suggestion of the Imperial German Government that certain vessels be designated and agreed upon which shall be free on the seas now illegally proscribed. The very agreement would, by implication, subject other vessels to illegal attack and would be a curtailment and therefore an abandonment of the principles for which this Government contends and which in times of calmer counsels every nation would concede as of course.

The Government of the United States and the Imperial German Government are contending for the same great object, have long stood together in urging the very principles, upon which the Government of the United States now so solemnly insists. They are both contending for the freedom of the seas. The Government of the United States will continue to contend for that freedom, from whatever quarter violated, without compromise and at any cost. It invites the practical cooperation of the Imperial German Government at this time when cooperation may accomplish most and this great common object be most strikingly and effectively achieved.

The Imperial German Government expresses the hope that this object may be in some measure accomplished even before the present war ends. It can be. The Government of the United States not only feels obliged to insist upon it, by whomsoever violated or ignored, in the protection of its own citizens, but is also deeply interested in seeing it made practicable between the belligerents themselves, and holds itself ready at any time to act as the common friend who may be privileged to suggest a way.

In the meantime the very value which this Government sets upon the long and unbroken friendship between the people and Government of the United States and the people and Government of the German nation impels it to press very solemnly upon the Imperial German Government the necessity for a scrupulous observance of neutral rights in this critical matter. Friendship itself prompts it to say to the Imperial Government that repetition by the commanders of German naval vessels of acts in contravention of those rights must be regarded by the Government of the United States, when they affect American citizens, as deliberately unfriendly.

LANSING

108

The Secretary of State to the Ambassador in Great Britain
(Page)⁴⁹

[Telegram]

WASHINGTON, July 28, 1915—1 p.m.

1917. Your 2538 July 27 and 2463 July 15.

On Monday in a conversation with the British Ambassador on the subject of cotton,⁵⁰ I told him that for his government to put cotton on the contraband list was a confession that their alleged blockade was ineffective; that if it was effective and their theory of blockade was correct it was needless to declare cotton contraband since all articles regardless of their character, would be prevented from entering or leaving Germany. I added that if cotton was made contraband we would have to assume that the British theory of blockade so far as neutral ports were concerned had been abandoned and we would proceed on that assumption which would create a very difficult situation. I pointed out to him the resentment which would be aroused in this country by the proposed action,

⁴⁹ File No. 763.72112/1393; For. Rel., 1915, supp., p. 490.

⁵⁰ The Ambassador in Great Britain had reported on July 22, 1915: "Sir Edward Grey has just informed me that he has telegraphed his Ambassador at Washington that the British Government will make cotton contraband before the new crop gets to market. The British Commercial Attaché at Washington is instructed to confer with the cotton interests and to [come] to some satisfactory working arrangement whereby this country will buy large quantities at a good price. Whatever arrangement is made will be announced when the announcement is made that cotton will be contraband." (File No. 763.72112/1372; For. Rel., 1915, supp., p. 193.)

and by the feeling that Great Britain had broken her promise; and that his Government could not hold us responsible for the consequences.^{50a}

LANSING

109

*The Secretary of State to the President*⁵¹

August 2, 1915.

MY DEAR MR. PRESIDENT: In view of the making public of the Austrian statement in regard to the exportation of arms and ammunition,^{51a} I hasten to send you a draft of reply.^{51b} I have not had time to review it with the care I should like to give to it.

You will observe in reading it that it is presented in a popular rather than a technical manner because I think it will be more valuable for the public here in the United States than for its effect upon the position taken by Austria-Hungary.

I hope you can pass upon it speedily because I believe it would, at the present moment, have a very beneficial effect on public opinion. It is our first opportunity to present in a popular way the reasons why we should not restrict the exportation of munitions of war. If you have noticed in the papers meetings are being held under various auspices looking to the imposition of an embargo on arms and ammunition. The propaganda is being conducted in various parts of the country and if continued may become very embarrassing.

Faithfully yours,

ROBERT LANSING

110

*The President to the Secretary of State*⁵²

5 August, 1915.

MY DEAR MR. SECRETARY: I have gone over this paper⁵³ very carefully indeed, and these questions urge themselves upon me:

1. Can this argument not be taken as an argument in sympathy with the Allies and against militarism, which is Germany?

2. Are we not ourselves about to urge the control of the manufacture of arms and munitions by every government in our proposed

^{50a} In a British proclamation of Aug. 20, 1915, it was declared that raw cotton, cotton linters, cotton waste, and cotton yarns would be treated as absolute contraband. (File No. 763.72112/1494; For. Rel., 1915, supp., p. 174.)

⁵¹ File No. 763.72111 Em 1/26.

^{51a} Document 99.

^{51b} Not printed.

⁵² File No. 763.72111 Em 1/31½.

⁵³ Draft of the note to the Austro-Hungarian Government. The draft does not differ substantially from the note sent on Aug. 12, 1915 (document 113), except for the insertion of a paragraph referred to in document 111.

understandings and undertakings with the Latin-American countries;⁵⁴ and do we not wish ultimately to strive for the same thing in the final European settlement?

Of course we are arguing only to the special case, and are absolutely unanswerable in our position that these things cannot be done while a war is in progress as against the parties to it; but how far, do you think, the arguments we urge in this paper will estop us in future deliberations on the peace and security of the world?

Faithfully Yours,

W. W.

111

*The Secretary of State to the President*⁵⁵

August 6, 1915.

MY DEAR MR. PRESIDENT: I am in receipt of your letter returning in revised form the proposed answer to the Austrian statement regarding arms and ammunition, and I think the changes improve the language very much.

The questions which you raise as to the possibility of the reply being taken as an argument in sympathy with the Allies and against German militarism applies, I presume, to that part of the draft which advances the practical and substantial reason—being on page 6.⁵⁶

I think the question is justified. The argument might, and I have no doubt would by pro-German sympathizers, be construed as you suggest by your question. But, if we do not mean it, do we not run the risk of resting our whole case on the principle that to change our laws in time of war would be unneutral and also on the past usage of nations, and especially the practice of Germany and Austria?

While probably that argument is sufficient to meet the contention of Austria, it may be held to be technical and will not, I am afraid, satisfy the humanitarians. For that reason, it seemed to me politic to insert the practical reason against prohibition and to show that

⁵⁴ On Feb. 1, 1915 (File No. 710.11/198½), the Secretary of State had submitted to the Ambassadors of Argentina, Brazil, and Chile a draft of a proposed convention. Arts. I and III provided:

"ART. I. That the contracting parties to this solemn covenant and agreement hereby join in a common and mutual guarantee to one another of undisturbed and indisputed territorial integrity and of complete political independence under republican forms of government."

"ART. III. That the high contracting parties severally pledge themselves to obtain and establish by law such control of the manufacture and sale of munitions of war within their respective jurisdictions as will enable them absolutely to control and make them responsible for the sale and shipment of such munitions to any other of the nations who are parties to this convention."

⁵⁵ File No. 763.72111 Em 1/31½.

⁵⁶ See last paragraph, p. 370.

it would compel general armament and so make for war rather than peace. Mr. Bryan and I talked this subject over on several occasions and I am sure that he considers that the prohibition of the sale of arms upon the advancement of peace would have this effect.

Would it be advisable, if this portion of the argument remains, to insert a paragraph disavowing any purpose of insinuating that Austria and Germany were aggressors?

Would that cure the objection or would it aggravate it? I am not at all sure in my own mind what the effect would be.

I enclose such a paragraph for consideration.⁵⁷ It could be inserted between lines 2 and 3 on page 9.

I do not think that the argument would seriously affect the program in regard to the American Republics or to a similar program for Europe. The principle is for governmental regulation and control of arms and ammunition, but with it goes the guaranty of political and territorial integrity. In case an American nation was attacked by a transoceanic nation, or another American nation, would it not be the duty of the guarantors to furnish the nation attacked not only with arms, but with men and ships?

Furthermore, I understand that the regulation of the manufacture and sale of arms is limited to trade between the contracting parties and would not apply to other nations unless they entered into a similar guaranty and agreement to regulate. Without the guaranty of integrity of territory and political independence I believe that an agreement restricting in general the sale of arms and ammunition would be inadvisable. With the guaranty the agreement is practical and will make for peace.

Unless, therefore, Europe sees fit to adopt the guaranty and to enter into the agreement about munitions, the argument advanced in the draft would remain and this country would be as free as it is today to trade in arms and ammunition with belligerents, and would be justified, as a neutral, in doing so.

One other thought in this connection suggests itself. If the guaranty should be adopted by the American Republics, an invasion by one of the territory of another would make every guarantor a belligerent, so that the question of the neutral right to sell arms and ammunition could never arise.

Faithfully yours,

[ROBERT LANSING]

⁵⁷ This paragraph reads:

"The Government of the United States in the foregoing discussion of the practical reason why it has advocated and practiced trade in munitions of war, distinctly disavows any purpose to suggest that Austria-Hungary and Germany are aggressive powers inspired with purposes of conquest. It makes this disavowal in order that no misconception may be placed upon its statements and that it may not be credited with imputations which it had no intention of making."

112

The Secretary of State to the Ambassador in Germany (Gerard) ⁵⁸

[Telegram]

WASHINGTON, August 10, 1915—3 p.m.

2057. You are instructed to present the following note to the German Minister of Foreign Affairs:

[“]Under instructions from my Government, I have the honor to inform Your Excellency in reply to your note of July 30th in regard to the claim for reparation for the sinking of the *William P. Frye*, that the Government of the United States learns with regret that the objections urged by it against the submission of this case to the prize court for decision have not commended themselves to the Imperial German Government, and it equally regrets that the reasons presented by the Imperial German Government for submitting this case to the prize court have failed to remove the objections of the Government of the United States to the adoption of that course. As this disagreement has been reached after the full presentation of the views of both Governments in our previous correspondence, a further exchange of views on the questions in dispute would doubtless be unprofitable, and the Government of the United States, therefore, welcomes Your Excellency's suggestion that some other way should now be found for settling this case.

The two methods of settlement proposed as alternative suggestions in Your Excellency's note have been given careful consideration, and it is believed that if they can be combined so that they may both be adopted, they will furnish a satisfactory basis for the solution of the question at issue.

The Government of the United States has already expressed its desire that the question of the amount of indemnity to be paid by the Imperial German Government under its admitted liability for the losses of the owners and captain on account of the destruction of the *Frye* should be settled by diplomatic negotiation, and it entirely concurs with the suggestion of the Imperial German Government that the simplest way would be to agree, as proposed in your note, “that each of the two Governments designate an expert and that the two experts jointly fix the amount of indemnity for the vessel and any American property which may have been sunk with her,” to be paid by the Imperial German Government when ascertained as stated in your note. It is assumed that the arrangement will include some provision for calling in an umpire in case the experts fail to agree.

The Government of the United States notes that your suggestion is made with the express reservation that a payment under this arrangement would not constitute an admission that American treaty rights had been violated, but would be regarded by the Imperial German Government merely as fulfilling a duty or policy founded on existing treaty stipulations. A payment made on this understanding would be entirely acceptable to the Government of the

⁵⁸ File No. 462.11Se8/39; For. Rel., 1915, supp., p. 504.

United States, provided that the acceptance of such payment should likewise be understood to be without prejudice to the contention of the Government of the United States that the sinking of the *Frye* was without legal justification, and provided also that an arrangement can be agreed upon for the immediate submission to arbitration of the question of legal justification, insofar as it involves the interpretation of existing treaty stipulations.

There can be no difference of opinion between the two Governments as to the desirability of having this question of the true intent and meaning of their treaty stipulations determined without delay, and to that end the Government of the United States proposes that the alternative suggestion of the Imperial German Government also be adopted, so that this question of treaty interpretation can be submitted forthwith to arbitration pursuant to article 38 of The Hague Convention for the pacific settlement of international disputes.

In this way both the question of indemnity and the question of treaty interpretation can promptly be settled, and it will be observed that the only change made in the plan proposed by the Imperial German Government is that instead of eliminating either one of its alternative suggestions, they are both given effect in order that both of the questions under discussion may be dealt with at the same time.

If this proposal proves acceptable to the Imperial German Government, it will be necessary also to determine whether, pending the arbitral award, the Imperial German Government shall govern its naval operations in accordance with its own interpretation, or in accordance with the interpretation maintained by the United States, as to the obligations imposed by their treaty stipulations, and the Government of the United States would be glad to have an expression of the views of the Imperial German Government on this point."

You are cautioned against expressing any opinion as to position of this Government on the point raised in last paragraph of note.

Arrange with Foreign Office for simultaneous publication of this note at earliest date which will give you time to cable Department.

LANSING

113

*The Secretary of State to the Ambassador in Austria-Hungary (Penfield)*⁸⁹

[Telegram]

WASHINGTON, August 12, 1915—6 p.m.

846. Your 751 July 1st and 759 July 5th.

Please present a note to the Royal Foreign Office in reply to its note of June 29th, in the following sense:

The Government of the United States has given careful consideration to the statement of the Imperial and Royal Government in regard to the exportation of arms and ammunition from the United

⁸⁹ File No. 763.72111 Em 1/13; For. Rel., 1915, supp., p. 794.

States to the countries at war with Austria-Hungary and Germany. The Government of the United States notes with satisfaction the recognition by the Imperial and Royal Government of the undoubted fact that its attitude with regard to the exportation of arms and ammunition from the United States is prompted by its intention to "maintain the strictest neutrality and to conform to the letter of the provisions of international treaties", but is surprised to find the Imperial and Royal Government implying that the observance of the strict principles of the law under the conditions which have developed in the present war is insufficient, and asserting that this Government should go beyond the long recognized rules governing such traffic by neutrals and adopt measures to "maintain an attitude of strict parity with respect to both belligerent parties."

To this assertion of an obligation to change or modify the rules of international usage on account of special conditions the Government of the United States cannot accede. The recognition of an obligation of this sort, unknown to the international practice of the past, would impose upon every neutral nation a duty to sit in judgment on the progress of a war and to restrict its commercial intercourse with a belligerent whose naval successes prevented the neutral from trade with the enemy. The contention of the Imperial and Royal Government appears to be that the advantages gained to a belligerent by its superiority on the sea should be equalized by the neutral powers by the establishment of a system of non-intercourse with the victor. The Imperial and Royal Government confines its comments to arms and ammunition, but, if the principle for which it contends is sound, it should apply with equal force to all articles of contraband. A belligerent controlling the high seas might possess an ample supply of arms and ammunition but be in want of food and clothing. On the novel principle that equalization is a neutral duty, neutral nations would be obligated to place an embargo on such articles because one of the belligerents could not obtain them through commercial intercourse.

But, if this principle, so strongly urged by the Imperial and Royal Government, should be admitted to obtain by reason of the superiority of a belligerent at sea, ought it not to operate equally as to a belligerent superior on land? Applying this theory of equalization, a belligerent who lacks the necessary munitions to contend successfully on land ought to be permitted to purchase them from neutrals, while a belligerent with an abundance of war stores or with the power to produce them should be debarred from such traffic.

Manifestly the idea of strict neutrality now advanced by the Imperial and Royal Government would involve a neutral nation in a mass of perplexities which would obscure the whole field of international obligation, produce economic confusion, and deprive all commerce and industry of legitimate fields of enterprise already heavily burdened by the unavoidable restrictions of war.

In this connection it is pertinent to direct the attention of the Imperial and Royal Government to the fact that Austria-Hungary and Germany, particularly the latter, have during the years preceding the present European war produced a great surplus of arms and ammunition, which they sold throughout the world and especially to belligerents. Never during that period did either of them suggest

or apply the principle now advocated by the Imperial and Royal Government.

During the Boer War between Great Britain and The South African Republics the patrol of the coasts of neighboring neutral colonies by British naval vessels prevented arms and ammunitions reaching the Transvaal or the Orange Free State. The Allied Republics were in a situation almost identical in that respect with that in which Austria-Hungary and Germany find themselves at the present time. Yet, in spite of the commercial isolation of one belligerent, Germany sold to Great Britain, the other belligerent, hundreds of thousands of kilos of explosives, gunpowder, cartridges, shot and weapons; and it is known that Austria-Hungary also sold similar munitions to the same purchaser, though in smaller quantities. While, as compared with the present war, the quantities sold were small (a table of the sales is appended), the principle of neutrality involved was the same. If at that time Austria-Hungary and her present ally had refused to sell arms and ammunitions to Great Britain on the ground that to do so would violate the spirit of strict neutrality, the Imperial and Royal Government might with greater consistency and greater force urge its present contention.

It might be further pointed out that during the Crimean War large quantities of arms and military stores were furnished to Russia by Prussian manufacturers; that during the recent war between Turkey and Italy, as this Government is advised, arms and ammunition were furnished to the Ottoman Government by Germany; and that during the Balkan wars the belligerents were supplied with munitions by both Austria-Hungary and Germany. While these latter cases are not analogous, as is the case of the South African War, to the situation of Austria-Hungary and Germany in the present war, they nevertheless clearly indicate the long-established practice of the two Empires in the matter of trade in war-supplies.

In view of the foregoing statements, this Government is reluctant to believe that the Imperial and Royal Government will ascribe to the United States a lack of impartial neutrality in continuing its legitimate trade in all kinds of supplies used to render the armed forces of a belligerent efficient, even though the circumstances of the present war prevent Austria-Hungary from obtaining such supplies from the markets of the United States, which have been and remain, so far as the action and policy of this Government are concerned, open to all belligerents alike.

But, in addition to the question of principle, there is a practical and substantial reason why the Government of the United States has from the foundation of the Republic to the present time advocated and practiced unrestricted trade in arms and military supplies. It has never been the policy of this country to maintain in time of peace a large military establishment or stores of arms and ammunition sufficient to repel invasion by a well equipped and powerful enemy. It has desired to remain at peace with all nations and to avoid any appearance of menacing such peace by the threat of its armies and navies. In consequence of this standing policy the United States would, in the event of attack by a foreign power, be at the outset of the war seriously, if not fatally embarrassed by the

lack of arms and ammunition and by the means to produce them in sufficient quantities to supply the requirements of national defense. The United States has always depended upon the right and power to purchase arms and ammunition from neutral nations in case of foreign attack. This right, which it claims for itself, it cannot deny to others.

A nation whose principle and policy it is to rely upon international obligations and international justice to preserve its political and territorial integrity, might become the prey of an aggressive nation whose policy and practice it is to increase its military strength during times of peace with the design of conquest, unless the nation attacked can, after war had been declared, go into the markets of the world and purchase the means to defend itself against the aggressor.

The general adoption by the nations of the world of the theory that neutral powers ought to prohibit the sale of arms and ammunition to belligerents would compel every nation to have in readiness at all times sufficient munitions of war to meet any emergency which might arise and to erect and maintain establishments for the manufacture of arms and ammunition sufficient to supply the needs of its military and naval forces throughout the progress of a war. Manifestly the application of this theory would result in every nation becoming an armed camp, ready to resist aggression and tempted to employ force in asserting its rights rather than appeal to reason and justice for the settlement of international disputes.

Perceiving, as it does, that the adoption of the principle that it is the duty of a neutral to prohibit the sale of arms and ammunition to a belligerent during the progress of a war would inevitably give the advantage to the belligerent which had encouraged the manufacture of munitions in time of peace and which had laid in vast stores of arms and ammunition in anticipation of war, the Government of the United States is convinced that the adoption of the theory would force militarism on the world and work against that universal peace which is the desire and purpose of all nations which exalt justice and righteousness in their relations with one another.

The Government of the United States in the foregoing discussion of the practical reason why it has advocated and practiced trade in munitions of war, wishes to be understood as speaking with no thought of expressing or implying any judgment with regard to the circumstances of the present war, but as merely putting very frankly the argument in this matter which has been conclusive in determining the policy of the United States.

While the practice of nations, so well illustrated by the practice of Austria-Hungary and Germany during the South African War, and the manifest evil which would result from a change of that practice render compliance with the suggestions of the Imperial and Royal Government out of the question, certain assertions appearing in the Austro-Hungarian statement as grounds for its contentions cannot be passed over without comment. These assertions are substantially as follows: (1) that the exportation of arms and ammunition from the United States to belligerents contravenes the

preamble of The Hague Convention No. 13 of 1907: (2) that it is inconsistent with the refusal of this Government to allow delivery of supplies to vessels of war on the high seas: (3) that, "according to all authorities on international law who concern themselves more properly with the question", exportation should be prevented "when this traffic assumes such a form or such dimensions that the neutrality of a nation becomes involved thereby".

As to the assertion that the exportation of arms and ammunition contravenes the preamble of The Hague Convention No. 13 of 1907, this Government presumes that reference it made to the last paragraph of the preamble, which is as follows "Seeing that, in this category of ideas, these rules should not, in principle, be altered, in the course of the war, by a neutral Power, except in a case where experience has shown the necessity for such change for the protection of the rights of that Power".

Manifestly the only ground to change the rules laid down by the Convention, one of which, it should be noted, explicitly declares that a neutral is not bound to prohibit the exportation of contraband of war, is the necessity of a neutral power to do so in order to protect its own rights. The right and duty to determine when this necessity exists rests with the neutral, not with a belligerent. It is discretionary, not mandatory. If a neutral power does not avail itself of the right, a belligerent is not privileged to complain, for in doing so it would be in the position of declaring to the neutral power what is necessary to protect that power's own rights. The Imperial and Royal Government cannot but perceive that a complaint of this nature would invite just rebuke.

With reference to the asserted inconsistency of the course adopted by this Government in relation to the exportation of arms and ammunition and that followed in not allowing supplies to be taken from its ports to ships of war on the high seas, it is only necessary to point out that the prohibition of supplies to ships of war rests upon the principle that a neutral power must not permit its territory to become a naval base for either belligerent. A warship may under certain restrictions obtain fuel and supplies in a neutral port once in three months. To permit merchant vessels acting as tenders to carry supplies more often than three months and in unlimited amount would defeat the purpose of the rule and might constitute the neutral territory a naval base. Furthermore, this Government is unaware that any Austro-Hungarian ship of war has sought to obtain supplies from a port in the United States either directly or indirectly. This subject has, however, already been discussed with the Imperial German Government, to which the position of this Government was fully set forth December 24, 1914.

In view of the positive assertion in the statement of the Imperial and Royal Government as to the unanimity of the opinions of text-writers as to the exportation of contraband being unneutral this Government has caused a careful examination of the principal authorities on international law to be made. As a result of this examination it has come to the conclusion that the Imperial and Royal Government has been misled and has inadvertently made an erroneous assertion. Less than one fifth of the authorities consulted advocate unreservedly the prohibition of the export of contraband.

Several of those who constitute this minority admit that the practice of nations has been otherwise. It may not be inopportune to direct particular attention to the declaration of the German authority, Paul Einicke, who states that, at the beginning of a war, belligerents have never remonstrated against the enactment of prohibitions on trade in contraband, but adds "that such prohibitions may be considered as violations of neutrality, or at least as unfriendly acts, if they are enacted during a war with the purpose to close unexpectedly the sources of supply to a party which heretofore had relied on them".

The Government of the United States deems it unnecessary to extend further at the present time a consideration of the statement of the Austro-Hungarian Government. The principles of international law, the practice of nations, the national safety of the United States and other nations without great military and naval establishments, the prevention of increased armies and navies, the adoption of peaceful methods for the adjustment of international differences, and, finally, neutrality itself are opposed to the prohibition by a neutral nation of the exportation of arms, ammunition, or other munitions of war to belligerent powers during the progress of the war.

LANSING

APPENDIX

GERMAN EXPORTS OF ARMS AND AMMUNITION TO GREAT BRITAIN

Articles	1899 Quantity 100 Kilos	1900 Quantity 100 Kilos	1901 Quantity 100 Kilos	1902 Quantity 100 Kilos
Explosives-----	4, 342	6, 014	5, 147	3, 645
Gunpowder-----	28	658	243	69
Gunbarrels-----	12	366	21	133
Shot of malleable iron, not polished, etc.	30	43	38	-----
Shot (further manufactured), Polished, etc., not lead-coated-----	-----	4	-----	-----
Shot, nicked or lead-coated with copper rings, etc-----	-----	3, 018	176	-----
Weapons for war purposes-----	-----	-----	18	2
Cartridges with copper shells, and percus- sion caps-----	904	1, 595	866	982

AUSTRO-HUNGARIAN EXPORTS OF ARMS AND AMMUNITION TO GREAT BRITAIN

Articles	1899 Quantity 100 Kilos	1900 Quantity 100 Kilos	1901 Quantity 100 Kilos	1902 Quantity 100 Kilos
Arms (Exclusive of small arms)-----	190	374	12	-----
Separate parts of arms-----	1	1	-----	-----
Small arms-----	2	3	80	5
Ammunition and Explosives under Tariff No. 346-----	1	7	16	51
Other ammunition and explosives-----	-----	-----	4	-----

114

*The Secretary of the Treasury (McAdoo) to the Secretary of State*⁶⁰

NORTH HAVEN, MAINE, August 23, 1915.

DEAR MR. SECRETARY: I enclose copy of a letter from James B. Forgan, of Chicago, to Vice-Governor Delano, of the Federal Reserve Board, in reference to the matter of foreign loans in this country. The foreign exchange situation is so serious that it may become imperative for some of the foreign governments to establish credits in this country in order that they may continue to purchase freely our farm products and other supplies. The attitude of the Government, as expressed in the letter of Secretary Bryan to Senator Stone, January 20th, 1915,^{60a} may seriously embarrass the creation of such credits in favor of foreign governments as are needed to enable them to continue their purchases in this country. Germany, by the way, disregarded this letter and placed more than ten million of short-time notes in this country through Chandler Brothers, of Philadelphia. It is not my purpose, however, to discuss that; I only mean to direct your attention to the importance of giving very serious thought to the points raised in Mr. Forgan's letter. I have always felt that it was a mistake for our Government to discountenance in any way the establishment of credits in this country in favor of foreign governments, such credits to be employed in purchasing supplies in this country. It seems to me entirely inconsistent to say that the purchase of our farm products and manufactured articles and other supplies by foreign governments is lawful and to be encouraged, and then to say that we discourage and discountenance as being unneutral the credit operations which are an essential part of such transactions.

I merely desire to call your attention at the moment to the seriousness of the question and to say that I hope no action will be taken that will add to the embarrassments of the situation by reaffirming or emphasizing the position taken in Mr. Byran's letter of January 20th, last, until I have had an opportunity to discuss this with you and the President.

I shall certainly be in Washington on the first of September—maybe sooner. I look forward with pleasure to seeing you then.

With warmest regards [etc.]

W. G. McADOO

⁶⁰ File No. 841.51/266.

^{60a} Document 44.

[Enclosure]

*Mr. James B. Forgan, of the First National Bank, Chicago, to the
Vice Governor of the Federal Reserve Board (Delano)*

CHICAGO, August 17, 1915.

MY DEAR MR. DELANO: I want to get some information for a very confidential purpose and it has occurred to me that you may be in a position to help me secure it.

It is, to put it bluntly; I would like to know what the attitude of the government administration in Washington would be towards the flotation of a large British loan in this country. Sometime ago I remember seeing in the press that the State Department had discouraged New York bankers on a proposition to float a British loan in this country, but at the same time it was stated that it was not within the province of the government to veto such a transaction. It would seem to me that the present condition of international exchange would deter the government from entering any objection to the flotation of such a loan in this country, or to the sale by Great Britain of American securities in this country. One or other of these transactions would seem to be a business necessity at the present time. As I am in a bit of a hurry to get the information I would appreciate a telegram indicating what you believe the government's attitude would be. You might send me one of the following telegrams to indicate which of the positions you think the government would take in regard to the flotation of a large British loan in this country and I will understand your meaning:

1. Parties would be favorable to and would encourage such a transaction.
2. Parties would take no action either for or against such a transaction.
3. Parties would discourage such a transaction but would not offer any active interference with it.
4. Parties attitude would be such as to make such a transaction practically impossible.

With kind regards [etc.]

JAMES B. FORGAN

115

*The Secretary of State to the President*⁶¹

August 24, 1915.

MY DEAR MR. PRESIDENT: In view of the situation created by the torpedoing of the *Arabic* and the danger of being involved in war

⁶¹ File No. 841.857 Ar 1/90½a.

The President replied on Aug. 26, 1915 (File No. 841.857 Ar 1/91½): "I very much appreciated your letter setting forth the pros and cons of the effect of hostilities with Germany. I find that it runs along very much the same lines as my own thought."

with Germany in case we should sever diplomatic relations, which appears probable, I have been considering the general effect of a state of war between this country and Germany upon the part we desire to play when negotiations for peace may seem practicable.

The position which we have hoped to occupy, was that of a mutual friend to the belligerents, who would act as intermediary in opening negotiations and as a restraint upon either party in making oppressive demands.

As the war has progressed I have become more and more convinced that we were losing constantly the friendship of both parties and that we would have little influence upon either in bringing about negotiations or in moulding the terms of peace. It would take but little to eliminate us entirely in the final settlement.

So far as Germany is concerned, I think that we have lost irretrievably any influence we may have possessed over her Government, and that our participation in any way in the restoration of peace would be resented.

As to the Allies, I believe that their distorted views as to our attitude, which is certainly misunderstood in Great Britain, would deprive us of influence with them.

Now, on the assumption that we sever diplomatic intercourse with the German Government, which responds by a declaration of war, the consequences internationally would seem to be the complete restoration of friendship and confidence with the Allies and the necessary recognition of the United States as a party to the peace negotiations. We would be in a position to influence the Allies, if they should be victorious, to be lenient in their demands and to regain a part of the good will of Germany by being a generous enemy. If, on the other hand, Germany should triumph, we would be included in any settlement made, and Germany would be deprived of the free hand she would otherwise have in dealing with us after she had overcome her European adversaries.

If the foregoing views are sound, it would appear that our usefulness in the restoration of peace would certainly not be lessened by a state of war between this country and Germany, and it might even be increased.

I have endeavored to analyze the situation impartially from the standpoint of our international relations and not from the standpoint of domestic policy. As to the latter standpoint my ideas are less definite. I do not know what effect war would have upon the American people. Of one thing though I am convinced, it will not arouse very much enthusiasm, however it may be approved by the American people other than those of German birth or descent. Beyond this I do not wish at the present time to express an opinion.

Faithfully yours,

ROBERT LANSING

116

*The Secretary of State to the President*⁶²

WASHINGTON, August 25, 1915.

MY DEAR MR. PRESIDENT: As the letter of Mr. James B. Forgan,⁶³ which is enclosed to me by Mr. Hamlin, deals directly with the general policy of the Government I feel that before answering it I should be advised as to your wishes. I therefore enclose Mr. Hamlin's letter^{63a} and a copy of Mr. Forgan's.

I think we must recognize the fact that conditions have materially changed since last autumn when we endeavored to discourage the flotation of any general loan by a belligerent in this country. The question of exchange and the large debts which result from purchases by belligerent governments require some method of funding these debts in this country.

Faithfully yours,

ROBERT LANSING

117

*The President to the Secretary of State*⁶⁴

WASHINGTON, 26 August, 1915.

MY DEAR MR. SECRETARY: My opinion in this matter,^{64a} compendiously stated, is that we should say that "Parties would take no action either for or against such a transaction", but that this should be orally conveyed, so far as we are concerned, and not put in writing.

I hope that this is also your own judgment in the matter.

Faithfully Yours,

W. W.

118

*The President to the Secretary of State*⁶⁵

27 August, 1915.

MY DEAR MR. SECRETARY: It does not seem to me that the Ambassador states our position fully enough here,⁶⁶ and I should very

⁶² File No. 841.51/266.

⁶³ Enclosure to document 114.

^{63a} Not printed.

⁶⁶ The German Ambassador had requested the Secretary of State to forward by wireless the following message to his Government:

"With regard to the confidential negotiations which I hope soon to be able to take up with the American Government, it seems that the last paragraph of the American *Frye* note of 10th inst. contains a suggestion which may prove useful in the general negotiations concerning *Lusitania* and *Arabic*. I understand the suggestion so that we should refrain from attacking passenger ships without warning pending negotiations, which would put the burden on England to refrain from unlawful blockade pending negotiations. It does, however, not mean that we should give up the whole submarine warfare." (File No. 763.72/2131; For. Rel., 1915, supp., p. 525.)

⁶⁴ File No. 841.51/266.

^{64a} See *supra*.

⁶⁵ File No. 763.72/2139½.

much dread seeing his Government misled. Our point is, not merely that no passenger ships should be attacked without warning, but that care should be taken to make adequate provision for safeguarding the lives of non-combatants. Mere warning on a stormy sea, mere putting of passengers and crew into open boats, might be as brutal as giving them no warning at all. "Without warning and provision for the safety of the lives of non-combatants", if he would accept the phraseology, would cover my point.

Faithfully Yours,

W. W.

119

*The German Ambassador (Bernstorff) to the Secretary of State*⁶⁷

WASHINGTON, September 1, 1915.

MY DEAR MR. SECRETARY: With reference to our conversation of this morning I beg to inform you that my instructions concerning our answer to your last *Lusitania* note contain the following passage:

"Liners will not be sunk by our submarines without warning and without safety of the lives of noncombatants, provided that the liners do not try to escape or offer resistance."

Although I know that you do not wish to discuss the *Lusitania* question till the *Arabic* incident has been definitely and satisfactorily settled, I desire to inform you of the above because this policy of my Government was decided on before the *Arabic* incident occurred.

I have no objection to your making any use you may please of the above information.

I remain [etc.]

J. BERNSTORFF

120

*The Secretary of State to the President*⁶⁸

September 6, 1915.

MY DEAR MR. PRESIDENT: Doubtless Secretary McAdoo has discussed with you the necessity of floating government loans for the belligerent nations, which are purchasing such great quantities of

⁶⁷ File No. 763.72/2084; For. Rel., 1915, supp., p. 530.

⁶⁸ File No. 811.51/2624a.

The President replied on Sept. 8, 1915: "I have no doubt that our oral discussion of this matter yesterday suffices. If it does not, will you let me know that you would like a written reply?"

goods in this country, in order to avoid a serious financial situation which will not only affect them but this country as well.

Briefly the situation, as I understand it, is this: Since December 1st, 1914, to June 30, 1915, our exports have exceeded our imports by nearly a billion dollars, and it is estimated that the excess will be from July 1st to December 31, 1915, a billion and three quarters. Thus for the year 1915 the excess will be approximately two and half billions of dollars.

It is estimated that the European banks have about three and half billions of dollars in gold in their vaults. To withdraw any considerable amount would disastrously affect the credit of the European nations, and the consequence would be a general state of bankruptcy.

If the European countries cannot find means to pay for the excess of goods sold to them over those purchased from them, they will have to stop buying and our present export trade will shrink proportionately. The result would be restriction of outputs, industrial depression, idle capital and idle labor, numerous failures, financial demoralization, and general unrest and suffering among the laboring classes.

Probably a billion and three quarters of the excess of European purchases can be taken care of by the sale of American securities held in Europe and by the transfer of trade balances of oriental countries, but that will leave three quarters of a billion to be met in some other way. Furthermore, even if that is arranged, we will have to face a more serious situation in January, 1916, as the American securities held abroad will have been exhausted.

I believe that Secretary McAdoo is convinced and I agree with him that there is only one means of avoiding this situation which would so seriously affect economic conditions in this country, and that is the flotation of large bond issues by the belligerent governments. Our financial institutions have the money to loan and wish to do so. On account of the great balance of trade in our favor the proceeds of these loans would be expended here. The result would be a maintenance of the credit of the borrowing nations based on their gold reserve, a continuance of our commerce at its present volume and industrial activity with the consequent employment of capital and labor and national prosperity.

The difficulty is—and this is what Secretary McAdoo came to see me about—that the Government early in the war announced that it considered “war loans” to be contrary to “the true spirit of neutrality.” A declaration to this effect was given to the press about August 15, 1914, by Secretary Bryan. The language is as follows:

"In the judgment of this Government loans by American bankers to any foreign nation at war is inconsistent with the true spirit of neutrality."

In October, 1914, after a conference with you, I gave my "impressions" to certain New York bankers in reference to "credit loans", but the general statement remained unaffected. In drafting the letter of January 20, 1915, to Senator Stone I sought to leave out a broad statement and to explain merely the reasons for distinguishing between "general loans" and "credit loans." However, Mr. Bryan thought it well to repeat the August declaration and it appears in the first sentence of division 13 of the letter, a copy of which I enclose.

On March 31, 1915, another press statement was given out from the Department which reads as follows:

"The State Department has from time to time received information directly or indirectly to the effect that belligerent nations had arranged with Banks in the United States for credits in various sums. While loans to belligerents have been disapproved, this Government has not felt that it was justified in interposing objection to the credit arrangements which have been brought to its attention. It has neither approved these nor disapproved—it has simply taken no action in the premises and expressed no opinion."

Manifestly the Government has committed itself to the policy of discouraging general loans to belligerent governments. The practical reasons for the policy at the time we adopted it were sound, but basing it on the ground that loans are "inconsistent with the true spirit of neutrality" is now a source of embarrassment. This latter ground is as strong today as it was a year ago, while the practical reasons for discouraging loans have largely disappeared. We have more money than we can use. Popular sympathy has become crystallized in favor of one or another of the belligerents to such an extent that the purchase of bonds would in no way increase the bitterness of partisanship or cause a possibly serious situation.

Now, on the other hand, we are face to face with what appears to be a critical economic situation, which can only be relieved apparently by the investment of American capital in foreign loans to be used in liquidating the enormous balance of trade in favor of the United States.

Can we afford to let a declaration as to our conception of "the true spirit of neutrality" made in the first days of the war stand in the way of our national interests which seem to be seriously threatened?

If we cannot afford to do this, how are we to explain away the declaration and maintain a semblance of consistency?

My opinion is that we ought to allow the loans to be made for our own good, and I have been seeking some means of harmonizing our policy, so unconditionally announced, with the flotation of general loans. As yet I have found no solution to the problem.

Secretary McAdoo considers that the situation is becoming acute and that something should be done at once to avoid the disastrous results which will follow a continuance of the present policy.

Faithfully yours,

[ROBERT LANSING]

121

*The Ambassador in Germany (Gerard) to the Secretary of State*⁹⁹

[Telegram]

BERLIN, September 7, 1915—10 p.m.

[Received September 9—8 a.m.]

2855. Foreign Office sends me the following report of the sinking of the *Arabic* with the request that it be brought to the knowledge of the American Government:

"On the 19th of August a German submarine stopped the English steamer *Dunsley* about 60 nautical miles south of Kinsale and was on the point of sinking the prize by gun fire after the crew had left the vessel. At this moment the commander saw a large steamer making directly towards him. This steamer which, as developed later, was identical with the *Arabic*, was recognized as an enemy vessel as she did not fly any flag and bore no neutral markings. When she approached she altered her original course but then again pointed directly towards the submarine; from this the commander became convinced that the steamer had the intention of attacking and ramming him. In order to anticipate this attack he gave orders to have the submarine submerge and fired a torpedo at the steamer. After firing he convinced himself that the people on board were being rescued in 15 boats.

According to his instructions the commander was not allowed to attack the *Arabic* without warning and without saving lives unless the ship attempted to escape or offered resistance. He was forced however to conclude from the attendant circumstances that the *Arabic* planned a violent attack on the submarine. This conclusion was all the more obvious as he had been fired upon at a great distance in the Irish Sea on August 14th, that is a few days before, by a large passenger steamer apparently belonging to the British Royal Mail Steam Packet Company which he had neither attacked nor stopped.

The German Government most deeply regrets that lives were lost through the action of the commander. It particularly expresses this regret to the Government of the United States on account of the death of American citizens. The German Government is unable however to acknowledge any obligation to grant indemnity in the matter

⁹⁹ File No. 841.857 Ar 1/61; For. Rel., 1915, supp., p. 539.

even if the commander should have been mistaken as to the aggressive intentions of the *Arabic*. If it should prove to be the case that it is impossible for the German and the American Government to reach a harmonious opinion on this point the German Government would be prepared to submit the difference of opinion as being a question of international law to the Hague tribunals pursuant to Article 38 of the Hague Convention for the pacific settlement of international disputes; in so doing it assumes that as a matter of course the arbitral decision shall not be admitted to have the importance of a general decision on the permissibility or the converse under international law of German submarine warfare.

BERLIN, *September 7, 1915.*"

Respectfully suggest that if *Arabic* was bow on toward submarine torpedo would not have hit *Arabic* on side, and am convinced that situation here is such that if demands are not made quickly there is little chance of a favorable settlement.

GERARD

122

*The Ambassador in Great Britain (Page) to the Secretary of State*⁷⁰

[Telegram]

LONDON, *September 8, 1915—8 p.m.*

[Received September 9—8 a.m.]

2771. The feeling even of conservative men here seems hardening into the conviction that the United States is losing the fear and therefore the respect of foreign governments and of foreign opinion. The sinking of the *Arabic* and the apparent acceptance of Bernstorff's assurance of the cessation of submarine attacks on passenger ships created a bad impression because the assurance was not frank and specific and because no mention was made of the *Lusitania*. Fear of the same acquiescence in the torpedoing of the *Hesperian* is provoking ridicule and is fortifying the belief that we will desist from action under any provocation. This feeling is not confined to those who would like to have us enter the war but it exists among our best friends, who think we ought to keep out of actual war. They seem to construe our attitude as proof of weakness and there is danger that whatever we may say hereafter will be listened to with less respect. I think I detect evidence already of a diminishing respect for our communications. The impression grows that the "peace at any price" type of man has control of American opinion. Dumba's remaining would certainly tend to deepen this feeling into a permanent conviction.

Your must read this not as my opinion but as my interpretation of responsible opinion here. Men here are, of course, likely to form

⁷⁰ File No. 763.72/2106; For. Rel., 1915, supp., p. 537.

judgments on partial selfishness, but I have tried to leave out of account the ordinary temporary selfish section of public opinion and to include only that which looks as if it may become the permanent English judgment of the American democracy. Thinking men persist in regarding the United States as a more or less loose aggregation of different nationalities without national unity, national aims, or definite moral qualities.

AMERICAN AMBASSADOR

123

*The President to the Secretary of State*⁷¹

10 September, 1915.

MY DEAR MR. SECRETARY: I do not think any answer to this despatch^{71a} is necessary.

It is no doubt useful to know what opinion is on the other side of the water. After while even Englishmen will begin to understand (I wonder if they really ever will?) that what we are guided by is our sense of what is just and right and not our sensibility as regards what other nations think about us.

Faithfully Yours,

W. W.

124

*The President to the Secretary of State*⁷²

10 September, 1915.

MY DEAR MR. SECRETARY: The only present comment necessary on these letters,⁷³ obviously meant to be reassuring, is that my original error in speaking of "unarmed" vessels when I should have said "unresisting" is now rising up to embarrass us, for which I am very sorry.

The reply about the *Arabic*, if correctly outlined in the newspapers this morning, is not very promising of a fulfilment of what Bernstorff indicates as the attitude of his government in these letters.

Faithfully Yours,

W. W.

⁷¹ File No. 763.72/2140½.

^{71a} *Supra*.

⁷² File No. 841.857/30½.

⁷³ One of the letters referred to, from the German Ambassador to the Secretary of State, Sept. 8, 1915, contained the following statement: "... the whole controversy between the United States and Germany turns on the subject of 'unarmed merchant vessels'." (File No. 763.72/2101; For. Rel., 1915, supp., p. 538.)

125

*The Secretary of State to the President*⁷⁴

September 12, 1915.

MY DEAR MR. PRESIDENT: We have for several days held at Norfolk a British merchant vessel *Waimana* because she had on board a mounted 4.7 gun, endeavoring meanwhile to have the British Admiralty direct its removal before the vessel left our port.

We are now advised that the British Admiralty declines to remove the gun and asserts, correctly, that the vessel has complied with our declaration of September 19, 1914, as to armed merchant vessels.⁷⁵ Up to the present time the British Admiralty as a result of an informal understanding have kept guns off British merchant vessels entering American ports. For a year, therefore, the question has not been discussed as no case has arisen.

Meanwhile submarine warfare has developed as a practical method of interrupting merchant vessels. At the time we issued the declaration as to the status of armed merchant vessels this use of the submarine as a commerce destroyer was unknown, and the declaration was based on the means employed prior to that time.

I feel in my own mind that these changed conditions require a new declaration because an armament, which under previous conditions, was clearly defensive, may now be employed for offensive operations against so small and unarmored a craft as a submarine. On the 4th of this month the German Ambassador called my attention to the fact that on two occasions German submarines were attacked and fired upon by British passenger steamers. While these may be isolated cases the fact that such vessels are attacking submarines makes it difficult to demand that a submarine shall give warning and so expose itself to the heavy guns carried by some of the British passenger vessels.

As to the effect of these cases on our declaration, it would seem to me that we ought to amend it by asserting that in view of the successful employment of submarines as commerce destroyers and the possibility of offensive operations against them by a merchant vessel carrying an armament regardless of the number, size or location of the guns composing it, this Government will hereafter treat as a ship of war any merchant vessel of belligerent nationality which enters an American port with any armament.

⁷⁴ File No. 763.72/2142½b.

⁷⁵ This declaration included the following statement:

"A merchant vessel of belligerent nationality may carry an armament and ammunition for the sole purpose of defense without acquiring the character of a ship of war." (File No. 763.72111/226a; For. Rel., 1914, supp., p. 611.)

The assumption of this position has another advantage and that is that the term "[un]armed" instead of "unresisting" will be justified, and as it was used I feel that we ought to stand by it.

In the particular case of the vessel at Norfolk I think that we should be less rigid on account of our former declaration. A proposed note to the British Ambassador is enclosed treating the case specially and leniently.

I enclose also the entire docket ^{75a} in the case directing your attention in particular to Count von Bernstorff's note of the 4th instant, and our declaration of September 19, 1914, which immediately follows it.

Faithfully yours,

ROBERT LANSING

126

The President to the Secretary of State ⁷⁶

13 September, 1915.

MY DEAR MR. SECRETARY: I have read this carefully.⁷⁷

I think the course we orally outlined this morning is the best one:

To let this particular vessel go upon a promise by the British Admiralty and a bond by the owners of the vessel that the arms will in no case be used for offense;⁷⁸

And to prepare the general regulation you suggest, but not publish it or put it into effect until we see what we are going to be able to work out of this *Arabic* business.

Faithfully Yours,

W. W.

127

The Secretary of State to the Secretary to the President (Tumulty) ⁷⁹

September 16, 1915.

MY DEAR MR. TUMULTY: Referring to your letter of September 13th, in regard to the embargoes imposed by neutral countries upon the exportation of arms and ammunition, the Department has information on this subject in regard to the following countries:

Brazil	China
Argentina	Denmark
Chile	Sweden
Colombia	Norway
Paraguay	Netherlands
Peru	Spain
Uruguay	Portugal
Venezuela	Italy

^{75a} Not printed.

⁷⁶ File No. 763.72/2143½.

⁷⁷ Document 125, *supra*.

⁷⁸ The Secretary of State stated on Oct. 18, 1915, that the *Waimana* case was closed by the gun being removed without prejudice to the principle involved. (File No. 811.0151/101a; For. Rel., 1915, supp., p. 577.)

⁷⁹ File No. 763.72111/2866; For. Rel., 1915, supp., p. 804.

It appears that none of the South American countries mentioned have placed an embargo on arms and ammunition during the present war, with the exception of Brazil which, by a decree of August 4th, 1914, prohibited the exportation of "war materials from Brazilian ports to those of the powers at war."

Of the European countries mentioned, all have placed an embargo on the exportation of war materials except Portugal which appears to have taken no official action of this sort. Spain, Italy, Denmark, Sweden, Norway and Holland prohibited the exportation of arms and ammunition in order, it is reported, to conserve their supplies for their own use. It is reported also that the exportation of such materials from any of these countries, except possibly Italy, would, if allowed, have been of a negligible quantity. It is not possible to ascertain whether the real ground for the embargoes was, in some cases, that of conservation or really to avoid the enmity of the belligerents, to retaliate against some vexatious measure of the belligerents or to maintain a strict neutrality. It may be that in some cases all of these grounds governed the action of the neutral country.

In the Orient, China appears to have interdicted private commerce in articles of a contraband nature.

As of possible value, I also enclose some copies of a print entitled "Articles Whose Export is Prohibited by the Neutral European Countries".^{79a} This compilation has been prepared in the Department from the latest information available up to June 26th, 1915.

I can see no objection to printing the information given in this letter, with the statement that it is compiled by the Department of State from information available at the time.

Very sincerely yours,

ROBERT LANSING

128

The Acting Secretary of State to the Ambassador in Germany (Gerard) ⁸⁰

[Telegram]

WASHINGTON, September 20, 1915—5 p.m.

2214. Your 2900, September 16, 12 Noon.

The Secretary of State received Count Bernstorff on the 13th instant, and the following is the substance of the Secretary's remarks:

He pointed out the objectionable features which made it impossible to reply to the *Arabia* note in its present form, that the attack

^{79a} Not printed.

⁸⁰ File No. 763.72/2127; For. Rel., 1915, supp., p. 549.

upon the *Arabic* and the unconditional support by the German Government of the submarine commander made Bernstorff's acceptance of the principles desired valueless, and that the *Arabic* note did not disclose that any report had been received from the submarine commander. If there was such report we should be so informed. The instructions to the Commander had not been definitely revealed, and the mistake of the German officer who attacked the *Arabic* made this Government doubtful as to the efficacy of his instructions. Furthermore, the Secretary pointed out that German declaration should be broadened so as to include all merchant vessels and not limited to passenger vessels. In past the Germans have very properly warned freight vessels as freighters might have Americans in crew.

He added that arbitration could not be discussed as we could not arbitrate justification of submarine commander, and only remaining question was amount of indemnity; in conclusion he expressed his opinion that Germany should admit that mistake was without justification, should disavow act of officer, and then question of arbitration could be considered.

POLK

129

*The Secretary of State to the German Ambassador (Bernstorff)*⁸¹

WASHINGTON, October 6, 1915.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your note of yesterday informing me that orders to the commanders of the German submarines have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question; that the attack on the *Arabic* was undertaken against the instructions issued to the Commander of the submarine; and that the Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly. Furthermore, you advise me that your Government is prepared to pay an indemnity for the loss of American lives and that you are authorized to negotiate with me in regard to this indemnity.

In reply I hasten to inform you that I have noted with satisfaction the above assurances of your Government, and I am now prepared to negotiate with you concerning the amount of the indemnity. Steps will be taken at once to come in touch with the interested persons, after which I shall be pleased to communicate with you further in this matter.

I am [etc.]

ROBERT LANSING

⁸¹ File No. 841.857 Ar 1/92; For. Rel., 1915, supp., p. 560.

130

*The Secretary of State to the Ambassador in Germany (Gerard)*⁸²

[Telegram]

WASHINGTON, October 12, 1915.

2291. You are instructed to present the following note to the German Minister of Foreign Affairs:

In reply to your Excellency's note of September 19th, on the subject of the claim for damages for the sinking of the American merchantman *Wm. P. Frye*, I am instructed by the Government of the United States to say that it notes with satisfaction the willingness of the Imperial German Government to settle the questions at issue in this case by referring to a joint commission of experts the amount of the indemnity to be paid by the Imperial German Government under its admitted liability for the losses of the owners and captain on account of the destruction of the vessel, and by referring to arbitration the question of the interpretation of treaty rights. The Government of the United States further notes that in agreeing to this arrangement the Imperial German Government expressly states that in making payment, it does not acknowledge the violation of the treaty as contended by the Government of the United States, and that the settlement of the question of indemnity does not prejudice the arrangement of the differences of opinion between the two governments concerning the interpretation of the treaty rights. The Government of the United States understands that this arrangement will also be without prejudice to its own contention in accordance with the statement of its position in its note of August 10th last⁸³ to your Excellency on this subject, and the Government of the United States agrees to this arrangement on that understanding. Your Excellency states that the Imperial German Government believes that the nomination of an Umpire should be dispensed with because it has been the experience of the Imperial German Government that the experts named in such cases have always reached an agreement without difficulty, and that should they disagree on some point, it could probably be settled by diplomatic negotiation. The Government of the United States entirely concurs in the view that it is not necessary to nominate an Umpire in advance. It is not to be assumed that the experts will be unable to agree, or that if they are the point in dispute cannot be settled by diplomatic negotiation, but the Government of the United States believes that in agreeing to this arrangement it should be understood in advance that in case the amount of indemnity is not settled by the joint commission of experts or by diplomatic negotiation, the question will then be referred to an Umpire if that is desired by the Government of the United States.⁸⁴

⁸² File No. 462.11 Se 8/49; For. Rel., 1915, supp., p. 570.

⁸³ See document 112.

⁸⁴ The amount of indemnity due from Germany was decided by the Mixed Claims Commission, United States and Germany, on Apr. 21, 1926. (Mixed Claims Commission, United States and Germany, *Administrative Decisions and Opinions of a General Nature and Opinions in Individual Lusitania Claims and Other Cases*, from July 1, 1925, to Oct. 1, 1926, pp. 681-685.)

Assuming that this understanding is acceptable to the German Government, it will only remain for the Government of the United States to nominate its expert to act with the expert already nominated by the German Government on the joint commission. It seems desirable to the Government of the United States that this joint commission of experts should meet without delay as soon as the American member is named and that its meetings should be held in the United States, because as pointed out in my note to you of April 30, last,⁸⁵ any evidence which the German Government may wish to have produced is more accessible and can more conveniently be examined there than elsewhere.

With reference to the agreement to submit to arbitration the question of treaty interpretation, the Government of the United States notes that in answer to its inquiry whether, pending the arbitral proceedings, the German Government will govern its naval operations in accordance with the German or American interpretation of the treaty stipulations in question, the reply of the German Government is that it "has issued orders to the German naval forces not to destroy American merchantmen which have loaded conditional contraband even when the conditions of international law are present, but to permit them to continue their voyage unhindered if it is not possible to take them into port" and that "on the other hand it must reserve to itself the right to destroy vessels carrying absolute contraband whenever such destruction is permissible according to the provisions of the Declaration of London."

Without admitting that the Declaration of London is in force, and on the understanding that the requirement in Article 50 of the Declaration that "before the vessel is destroyed all persons on board must be placed in safety" is not satisfied by merely giving them an opportunity to escape in life boats, the Government of the United States is willing, pending the arbitral award in this case, to accept the Declaration of London as the rule governing the conduct of the German Government in relation to the treatment of American vessels carrying cargoes of absolute contraband. On this understanding the Government of the United States agrees to refer to arbitration this question of treaty interpretation.

The Government of the United States concurs in the desire of the Imperial German Government that the negotiations relative to the signing of the *compromis* referring this question of treaty interpretation to arbitration under the provisions of Article 52 of The Hague Arbitration Convention, should be conducted between the German Foreign Office and the American Embassy in Berlin, and the Government of the United States will be glad to receive the draft *compromis*, which you inform me the Foreign Office is prepared to submit to the American Ambassador in Berlin. Anticipating that it may be convenient for the Imperial German Government to know in advance of these negotiations the preference of the Government of the United States as to the form of arbitration to be arranged for in the *compromis*, my Government desires me to say that it would prefer, if agreeable to the Imperial Government, that the arbitration should be by summary procedure based upon the provisions of

⁸⁵ See document 71.

Articles 86 to 90 inclusive, of The Hague Arbitration Convention, rather than the longer form of arbitration before the Permanent Court at The Hague.

Arrange for simultaneous publication of this note at earliest date which will give you time to notify the Department.

LANSING

131

The Secretary of State to the Ambassador in Great Britain (Page) ⁸⁸

WASHINGTON, October 21, 1915.

SIR: I desire that you present a note to Sir Edward Grey in the sense of the following:

(1) The Government of the United States has given careful consideration to Your Excellency's notes of January 7, February 10, June 22, July 23, July 31 (2), August 13, and to a *note verbale* of the British Embassy of August 6, relating to restrictions upon American commerce by certain measures adopted by the British Government during the present war. This Government has delayed answering the earlier of these notes in the hope that the announced purpose of His Majesty's Government "to exercise their belligerent rights with every possible consideration for the interest of neutrals" and their intention of "removing all causes of avoidable delay in dealing with American cargoes" and of causing "the least possible amount of inconvenience to persons engaged in legitimate trade", as well as their "assurances to the United States Government that they would make it their first aim to minimize the inconveniences" resulting from the "measures taken by the Allied Governments", would in practice not unjustifiably infringe upon the neutral rights of American citizens engaged in trade and commerce. It is, therefore, a matter of regret that this hope has not been realized, but, that, on the contrary, interferences with American ships and cargoes destined in good faith to neutral ports and lawfully entitled to proceed have become increasingly vexatious, causing American ship-owners and American merchants to complain to this Government of the failure to take steps to prevent an exercise of belligerent power in contravention of their just rights. As the measures complained of proceed directly from orders issued by the British Government, are executed by British authorities and arouse a reasonable apprehension that, if not resisted, they may be carried to an extent even more injurious to American interests, this Government directs the attention of His Majesty's Government to the following considerations:

(2) Without commenting upon the statistics presented by His Majesty's Government to show that the export trade of the United States has increased in volume since the war began further than to point out that the comparative values fail to take into account the increased price of commodities resulting from a state of war or to make any allowance for the diminution in the volume of trade which

⁸⁸ File No. 763.72112/1861a; For. Rel., 1915, supp., p. 578.

the neutral countries in Europe previously had with the nations at war, a diminution which compelled them to buy in other markets, I will pass directly to the matters which constitute the specific complaints of this Government.

(3) *First*: The detentions of American vessels and cargoes which have taken place since the opening of hostilities have, it is presumed, been pursuant to the enforcement of the Orders in Council, which were issued on August 20 and October 29, 1914, and March 11, 1915,⁸⁷ and relate to contraband traffic and to the interception of trade to and from Germany and Austria-Hungary. In practice these detentions have not been uniformly based on proofs obtained at the time of seizure, but many vessels have been detained while search was made for evidence of the contraband character of cargoes or of an intention to evade the non-intercourse measures of Great Britain. The question, consequently, has been one of evidence to support a belief or, in many cases, a bare suspicion of enemy destination, or occasionally of enemy origin, of the goods involved. Whether this evidence should be obtained by search at sea before the vessel or cargo is taken into port, and what the character of the evidence should be, which is necessary to justify the detention, are the points to which I direct your Excellency's attention.

(4) In regard to search at sea, an examination of the instructions issued to naval commanders of the United States, Great Britain, Russia, Japan, Spain, Germany, and France from 1888 to the beginning of the present war shows that search in port was not contemplated by the Government of any of these countries. On the contrary, the context of the respective instructions shows that search at sea was the procedure expected to be followed by the commanders. All of these instructions impress upon the naval officers the necessity of acting with the utmost moderation, and in some cases commanders are specifically instructed, in exercising the right of visit and search, to avoid undue deviation of the vessel from her course.

(5) An examination of the opinions of the most eminent text writers on the laws of nations shows that they give practically no consideration to the question of search in port, outside of examination in the course of regular Prize Court proceedings.

(6) The assertion by His Majesty's Government that the position of the United States in relation to search at sea is inconsistent with its practice during the American Civil War is based upon a misconception. Irregularities there may have been at the beginning of that war, but a careful search of the records of this Government as to the practice of its commanders shows conclusively that there were no instances when vessels were brought into port for search prior to instituting Prize Court proceedings, or that captures were made upon other grounds than, in the words of the American note of November 7th [1914], "evidence found on the ship under investigation and not upon circumstances ascertained from external sources." A copy of the instruction issued to American naval officers on August 18, 1862, for their guidance during the Civil War, is appended.⁸⁸

⁸⁷ Documents 11, 32, and 54, respectively.

⁸⁸ Vol. I, document 133, p. 450.

(7) The British contention that "modern conditions" justify bringing vessels into port for search is based upon the size and seaworthiness of modern carriers of commerce and the difficulty of uncovering the real transaction in the intricate trade operations of the present day. It is believed that commercial transactions of the present time, hampered as they are by censorship of telegraph and postal communication on the part of belligerents, are essentially no more complex and disguised than in the wars of recent years during which the practice of obtaining evidence in port to determine whether a vessel should be held for prize proceedings was not adopted. The effect of the size and seaworthiness of merchant vessels upon their search at sea has been submitted to a board of naval experts which reports that:—

"At no period in history has it been considered necessary to remove every package of a ship's cargo to establish the character and nature of her trade or the service on which she is bound, nor is such removal necessary. . . .⁸⁰

"The facilities for boarding and inspection of modern ships are in fact greater than in former times; and no difference, so far as the necessities of the case are concerned, can be seen between the search of a ship of a thousand tons and one of twenty thousand tons, except possibly a difference in time, for the purpose of establishing fully the character of her cargo and the nature of her service and destination. . . .⁸⁰ This method would be a direct aid to the belligerents concerned in that it would release a belligerent vessel overhauling the neutral, from its duty of search and set it free for further belligerent operations."

(8) Turning to the character and sufficiency of the evidence of the contraband nature of shipments to warrant the detention of a suspected vessel or cargo for prize proceedings, it will be recalled that when a vessel is brought in for adjudication Courts of prize have heretofore been bound by well-established and long-settled practice to consider at the first hearing only the ship's papers and documents, and the goods found on board together with the written replies of the officers and seamen to standing interrogatories taken under oath, alone and separately, as soon as possible and without communication with or instruction by counsel, in order to avoid possibility of corruption and fraud.

(9) Additional evidence was not allowed to be introduced except upon an order of the court for "further proof", and then only after the cause had been fully heard upon the facts already in evidence or when this evidence furnished a ground for prosecuting the inquiry further. This was the practice of the United States Courts during the war of 1812, the American Civil War, and the Spanish American War, as is evidenced by the reported decisions of those courts, and has been the practice of the British Prize Courts for over a century. This practice has been changed by the British Prize Court rules adopted for the present war by the Order in Council of August 5th [, 1914]. Under these new rules there is no longer a "first hearing" on the evidence derived from the ship, and the Prize Court is no longer precluded from receiving extrinsic evidence for which a suggestion has not been laid in the preparatory evidence. The result is, as pointed out above, that innocent vessels or cargoes are now seized and detained on mere suspicion while

⁸⁰ Omission indicated on the file copy of the Secretary's communication.

efforts are made to obtain evidence from extraneous sources to justify the detention and the commencement of prize proceedings. The effect of this new procedure is to subject traders to risk loss, delay and expense so great and so burdensome as practically to destroy much of the export trade of the United States to neutral countries of Europe.

(10) In order to place the responsibility for the delays of vessels and cargoes upon American claimants, the Order in Council of October 29, 1914, as pointed out in the British note of February 10th, seeks to place the burden of proof as to the non-contraband character of the goods upon the claimant in cases where the goods are consigned "to order" or the consignee is not named or the consignee is within enemy territory. Without admitting that the *onus probandi* can rightfully be made to rest upon the claimant in these cases it is sufficient for the purposes of this note to point out that the three classes of cases indicated in the Order in Council of October 29th apply to only a few of the many seizures or detentions which have actually been made by British authorities.

(11) The British contention that in the American Civil War the captor was allowed to establish enemy destination by "all the evidence at his disposal", citing the *Bermuda* case (3 Wallace 515),⁹⁰ is not borne out by the facts of that case. The case of the *Bermuda* was one of "further proof", a proceeding not to determine whether the vessel should be detained and placed in a Prize Court but whether the vessel, having been placed in Prize Court, should be restored or condemned. The same ruling was made in the case of the *Sir William Peel* (5 Wallace 517). These cases, therefore, cannot be properly cited as supporting the course of a British captor in taking a vessel into port there to obtain extrinsic evidence to justify him in detaining the vessel for prize proceedings.

(12) The further contention that the greatly increased imports of neutral countries, adjoining Great Britain's enemies, raise a presumption that certain commodities, such as cotton, rubber, and others more or less useful for military purposes, though destined for those countries, are intended for re-exportation to the belligerents who cannot import them directly, and that this fact justifies the detention for the purpose of examination of all vessels bound for the ports of those neutral countries, notwithstanding the fact that most of the articles of trade have been placed on the embargo lists of those countries, cannot be accepted as laying down a just or legal rule of evidence. Such a presumption is too remote from the facts and offers too great opportunity for abuse by the belligerent, who could, if the rule were adopted, entirely ignore neutral rights on the high seas and prey with impunity upon neutral commerce. To such a rule of legal presumption this Government cannot accede as it is opposed to those fundamental principles of justice which are the foundation of the jurisprudence of the United States and Great Britain.

(13) Before passing from the discussion of this contention as to the presumption raised by increased importations to neutral countries this Government directs attention to the fact that His Majesty's

⁹⁰ See vol. I, document 136, p. 454.

Government admit that the British exports to those countries have also materially increased since the present war began. Thus Great Britain concededly shares in creating a condition which is relied upon as a sufficient ground to justify the interception of American goods destined to neutral European ports. If British exports to those ports should be still further increased, it is obvious that, under the rule of evidence contended for by the British Government, the presumption of enemy destination could be applied to a greater number of American cargoes, and American trade would suffer to the extent that British trade benefitted by the increase. Great Britain cannot expect the United States to submit to such manifest injustice or to permit the rights of its citizens to be so seriously impaired.

(14) When goods are clearly intended to become incorporated in the mass of merchandise for sale in a neutral country it is an unwarranted and inquisitorial proceeding to detain shipments for examination as to whether those goods are ultimately destined for the enemy's country or use. Whatever may be the conjectural conclusions to be drawn from trade statistics, which, when stated by value, are of uncertain evidence as to quantity, the United States maintains the right to sell goods into the general stock of a neutral country and denounces as illegal and unjustifiable any attempt of a belligerent to interfere with that right on the ground that it suspects that the previous supply of such goods in the neutral country, which the imports renew or replace, has been sold to an enemy. That is a matter with which the neutral vendor has no concern and which can in no way affect his rights of trade. Moreover, even if goods listed as conditional contraband are destined to an enemy country through a neutral country, that fact is not in itself sufficient to justify their seizure.

(15) In view of these considerations, the United States, reiterating its position in this matter, has no other course but to contest seizures of vessels at sea upon conjectural suspicion and the practice of bringing them into port for the purpose, by search or otherwise, of obtaining evidence, for the purpose of justifying prize proceedings, of the carriage of contraband or of breaches of the Order in Council of March 11th. Relying upon the regard of the British Government for the principles of justice so frequently and uniformly manifested prior to the present war, this Government anticipates that the British Government will instruct their officers to refrain from these vexatious and illegal practices.

(16) *Second:* The Government of the United States further desires to direct particular attention to the so-called "blockade" measures imposed by the Order in Council of March 11th. The British note of July 23, 1915, appears to confirm the intention indicated in the note of March 15, 1915,⁹¹ to establish a blockade so extensive as to prohibit trade with Germany or Austria-Hungary even through the ports of neutral countries adjacent to them. Great Britain, however, admits that it should not, and gives assurances that it will not, interfere with trade with the countries contiguous to the territories of the enemies of Great Britain. Nevertheless, after over six months application of the "blockade" order, the experience of

⁹¹ Document 54.

American citizens has convinced the Government of the United States that Great Britain has been unsuccessful in her efforts to distinguish between enemy and neutral trade. Arrangements have been made to create in these neutral countries special consignees, or consignment corporations with power to refuse shipments and to determine when the state of the country's resources requires the importation of new commodities. American commercial interests are hampered by the intricacies of these arrangements and many American citizens justly complain that their *bona fide* trade with neutral countries is greatly reduced as a consequence, while others assert that their neutral trade, which amounted annually to a large sum, has been entirely interrupted.

(17) It makes this practice even more harassing to neutral traders that the British authorities require a consignor to prove that his shipments are not bound to an enemy of Great Britain even when the articles are on the embargo list of the neutral country to which they are destined, and that notwithstanding the assertion in the last British note that interference with such trade by a belligerent can only take place "provided, of course, that he (the belligerent) can establish" that the commerce is with the enemy.

(18) While the United States Government was at first inclined to view with leniency the British measures which were termed in the correspondence but not in the Order in Council of March 11th a "blockade", because of the assurances of the British Government that inconvenience to neutral trade would be minimized by the discretion left to the courts in the application of the Order in Council and by the instructions which it was said would be issued to the administrative and other authorities having to do with the execution of the so-called "blockade" measures, this Government is now forced to the realization that its expectations, which were fully set forth in its note of March 30th,⁹² were based on a misconception of the intentions of the British Government. Desiring to avoid controversy and in the expectation that the administration of the Order in Council would conform to the established rules of international law, this Government has until now reserved the question of the actual validity of the Order in Council of March 11th insofar as it is considered by the Government of Great Britain to establish a blockade within the meaning of that term as understood in the law and the practice of nations; but in the circumstances now developed it feels that it can no longer permit the validity of the alleged blockade to remain unchallenged.

(19) The Declaration of Paris in 1856,⁹³ which has been universally recognized as correctly stating the rule of International Law as to blockade, expressly declares that "blockades, in order to be binding, must be effective, that is to say, maintained by force sufficient really to prevent access to the coast of the enemy." The effectiveness of a blockade is manifestly a question of fact. It is common knowledge that the German coasts are open to trade with the Scandinavian countries and that German naval vessels cruise both in the North Sea and the Baltic and seize and bring into German ports neutral

⁹² See document 58.

⁹³ See vol. I, document 118, p. 416.

vessels bound for Scandinavian and Danish ports. Furthermore, from the recent placing of cotton on the British list of contraband of war it appears that the British Government have themselves been forced to the conclusion that the blockade is ineffective to prevent shipments of cotton from reaching their enemies, or else that they are doubtful as to the legality of the form of blockade which they have sought to maintain.

(20) Moreover, it is an essential principle which has been universally accepted that a blockade must apply impartially to the ships of all nations. This was set forth in the Declaration of London, is found in the prize rules of Germany, France and Japan, and has long been admitted as a basic principle of the law of blockade. This principle, however, is not applied in the present British "blockade", for, as above indicated, German ports are notoriously open to traffic with the ports of Denmark, Norway and Sweden. So strictly has this principle been enforced in the past that in the Crimean war the Judicial Committee of the Privy Council on appeal laid down, that if belligerents themselves trade with blockaded ports they cannot be regarded as effectively blockaded. (*The Franciska*, Moore P. C. 56.) This decision has special significance at the present time since it is a matter of common knowledge that Great Britain exports and re-exports large quantities of merchandise to Norway, Sweden, Denmark and Holland, whose ports, so far as American commerce is concerned, she regards as blockaded. In fact, the British note of August 13th itself indicates that the British exports of many articles, such as cotton, lubricating oil, tobacco, cocoa, coffee, rice, wheat flour, barley, spices, tea, copra, etc., to these countries have greatly exceeded the British exports of the same articles for the corresponding period of 1914. The note also shows that there has been an important British trade with these countries in many other articles such as machinery, beef, butter, cotton waste, etc.

(21) Finally, there is no better settled principle of the law of nations than that which forbids the blockade of neutral ports in time of war. The Declaration of London, though not regarded as binding upon the signatories because not ratified by them, has been expressly adopted by the British Government without modification as to blockade in the British Order in Council of October 29, 1914. Article 18 of the Declaration declares specifically that "The blockading forces must not bar access to neutral ports or coasts." This is, in the opinion of this Government, a correct statement of the universally accepted law as it exists today and as it existed prior to the Declaration of London. The meaning of this statement is elucidated by Mr. Renault in the report of the drafting committee upon the Convention, in which he states:

"This rule has been thought necessary the better to protect the commercial interests of neutral countries; it completes Article 1, according to which a blockade must not extend beyond the ports and coasts of the enemy, which implies that, as it is an operation of war, it must not be directed against a neutral port, *in spite of the importance to a belligerent of the part played by that port in supplying his adversary.*"⁸⁴

⁸⁴ The italics do not appear on the report of the drafting committee.

As the Conference assembled at London upon the invitation of the British Government it is important to recall the instruction of Sir Edward Grey to the British delegates, "setting out the views of His Majesty's Government founded on the decisions of the British Courts", in which he says:

"A blockade must be confined to the ports and coast of the enemy but it may be instituted of one port or of several ports or of the whole of the seaboard of the enemy. It may be instituted to prevent the ingress only or egress only, or both."

He added:

"Where the ship does not intend to proceed to the blockaded port the fact that goods on board are to be sent on by sea or by inland transport is no ground for condemnation."

In support of this announcement Sir Edward Grey referred to several decisions of British Prize Courts, among which an early one of 1801 held that goods shipped from London to Emden, thence inland or by canal to Amsterdam, then blockaded by sea, were not subject to condemnation for breach of blockade. (*Jonge Pieter*, 4 C. R. 79) This has been the rule for a century, so that it is scarcely necessary to recall that the *Matamoras* cases, well known to the British Government, support the same rule, that neutral ports may not be blockaded, though "trade with unrestricted inland commerce between such a port and the enemy's territory impairs undoubtedly, and very seriously impairs, the value of a blockade of the enemy's coast."

(22) Without mentioning the other customary elements of a regularly imposed blockade, such as notification of the particular coast line invested, the imposition of the penalty of confiscation, etc., which are lacking in the present British "blockade" policy, it need only be pointed out that, measured by the three universally conceded tests above set forth, the present British measures cannot be regarded as constituting a blockade in law, in practice, or in effect.

(23) It is incumbent upon the United States Government, therefore, to give the British Government notice that the blockade, which they claim to have instituted under the Order in Council of March 11th, cannot be recognized as a legal blockade by the United States.

(24) Since the Government of Great Britain has laid much emphasis on the ruling of the Supreme Court of the United States in the *Springbok* case,⁶⁶ that goods of contraband character seized while going to the neutral port of Nassau, though actually bound for the blockaded ports of the south, were subject to condemnation, it is not inappropriate to direct attention to the British view of this case in England prior to the present war, as expressed by Sir Edward Grey in his instructions to the British delegates to the London Conference in 1908:

"It is exceedingly doubtful whether the decision of the Supreme Court was in reality meant to cover a case of blockade-running in which no question of contraband arose. Certainly if such was the intention the decision would *pro tanto* be in conflict with the practice of the British Courts. His Majesty's Government sees no reason for departing from that practice and you should endeavor to obtain general recognition of its correctness."

⁶⁶ Vol. I, document 137, p. 460.

It may be pointed out also that the circumstances surrounding the *Springbok* case were essentially different from those of the present day to which the rule laid down in that case is sought to be applied. When the *Springbok* case arose the ports of the Confederate States were effectively blockaded by the naval forces of the United States, though no neutral ports were closed and a continuous voyage through a neutral port required an all-sea voyage terminating in an attempt to pass the blockading squadron.

(25) *Third*: It appears to be the position of Great Britain that, if, as the United States alleges, American citizens or American interests are directly and adversely affected by the British policies of contraband and non-intercourse, resulting in interference with ships and cargoes, they should seek redress in the Prize Courts which the British Government have established, and that, pending the exhaustion of such legal remedies with the result of a denial of justice, the British Government "cannot continue to deal through the diplomatic channels with the individual cases."

(26) It is declared that this was the course followed by the United States during the American Civil War and the Spanish War, and that both countries have supported the practice by allowing their Prize Court decisions, when shown to be unjust or inadequate, to be reviewed by an international tribunal, as was done under the Treaties of 1794 and 1871. The ground upon which this contention is put forth, and the results which would follow, if the course of procedure suggested were accepted, give the impression that His Majesty's Government do not rely upon its soundness or strength. Nevertheless, since it has been advanced I cannot refrain from presenting certain considerations which will show that the proposed course embodies the form rather than the substance of redress. The cases which the British Government would have claimants present to their Prize Courts are essentially different from cases arising wholly within the jurisdiction of a foreign country. They result from acts committed by the British naval authorities upon the high seas, where the jurisdiction over neutral vessels is acquired solely by international law. Vessels of foreign nationality, flying a neutral flag and finding their protection in the country of that flag, are seized without facts warranting a reasonable suspicion that they are destined to blockaded ports of the enemy or that their cargoes are contraband, although the possession of such facts is, by international law, essential to render a seizure legal. The officers appear to find their justification in the Orders in Council and regulations of the British Government, in spite of the fact that in many of the present cases the Orders in Council and the regulations for their enforcement are themselves complained of by claimants as contrary to international law. Yet the very courts which, it is said, are to dispense justice to dissatisfied claimants, are bound by the Orders in Council. This is unmistakably indicated to be the case in the British note of July 31, which states that—

"British Prize Courts 'according to the ancient form of commission under which they sit are to determine cases according to the course of admiralty and the law of nations and the statutes, rules and regulations for the time being in force in that behalf.'"

This principle, the note adds, has recently been announced and adhered to by the British Prize Court in the case of the *Zamora*. It is manifest, therefore, that, if Prize Courts are bound by the laws and regulations under which seizures and detentions are made, and which claimants allege are in contravention of the law of nations, those courts are powerless to pass upon the real ground of complaint or to give redress for wrongs of this nature. Nevertheless, it is seriously suggested that claimants are free to request the Prize Court to rule upon a claim of conflict between an Order in Council and a rule of international law. How can a tribunal fettered in its jurisdiction and procedure by municipal enactments declare itself emancipated from their restrictions and at liberty to apply the rules of international law with freedom? The very laws and regulations which bind the court are now matters of dispute between the Government of the United States and that of His Britannic Majesty. If Great Britain followed, as she declares that she did, the course of first referring claimants to local remedies in cases arising out of American wars, it is presumed that she did so because of her knowledge or understanding that the United States had not sought to limit the jurisdiction of its Courts of Prize by instructions and regulations violative of the law and practice of nations, or open to such objection.

(27) The British note of February 10th states that the British Government in the American Civil War—

“in spite of remonstrances from any quarters, placed full reliance on the American Prize Courts to grant redress to the parties interested in cases of alleged wrongful capture by American ships of war and put forward no claim until the opportunity for redress in those courts had been exhausted.”

The Government of the United States recalls that during the progress of that war Great Britain, in several instances, demanded through diplomatic channels damages for seizures and detentions of British ships alleged to have been made without legal justification. Among these may be mentioned the cases of the *Magicienne*, the *Don Jose*, the *Labuan*, and the *Saxon*. Two of these cases were, at the time the demands were made, before American Prize Courts for adjudication. It is understood also that during the Boer War, when British authorities seized the German vessels, the *Herzog*, the *General* and the *Bundesrath*, and released them without prize proceedings, compensation for damages suffered was arranged through diplomatic channels.

(28) There is, furthermore, a real and far-reaching injury for which Prize Courts offer no means of reparation. It is the disastrous effect of the methods of the allied Governments upon the general right of the United States to enjoy its international trade free from unusual and arbitrary limitations imposed by belligerent nations. Unwarranted delay and expense in bringing vessels into port for search and investigation upon mere suspicion has a deterrent effect upon trade ventures, however lawful they may be, which cannot be adequately measured in damages. The menace of interference with legal commerce causes vessels to be withdrawn from their usual trade routes and insurance on vessels and cargoes to be refused, while exporters for the same reason are unable or unwilling to send their goods to foreign markets and importers dare not buy commodities

abroad because of fear of their illegal seizure or because they are unable to procure transportation. For such injuries there can be no remedy through the medium of courts established to adjust claims for goods detained or condemned. For specific injuries suffered by private interests Prize Courts, if they are free to apply the law of nations, might mete out an adequate indemnity, but for the injury to the trade of a nation by the menace of unwarranted interference with its lawful and established pursuit there can manifestly be found no remedy in the Prize Courts of Great Britain, to which United States citizens are referred for redress.

(29) There is another ground why American citizens can not submit their wrongs arising out of undue detentions and seizures to British Prize Courts for reparation, which I cannot pass over unnoticed. It is the manner in which British Courts obtain jurisdiction of such cases. The jurisdiction over merchant vessels on the high seas is that of the nation whose flag it rightfully flies. This is a principle of the law and practice of nations fundamental to the freedom of the high seas. Municipal enactments of a belligerent power cannot confer jurisdiction over or establish rules of evidence governing the legality of seizures of vessels of neutral nationality on the high seas. International law alone controls the exercise of the belligerent right to seize and detain such vessels. Municipal laws and regulations in violation of the international rights of another nation, cannot be extended to the vessels of the latter on the high seas so as to justify a belligerent nation bringing them into its ports, and, having illegally brought them within its territorial jurisdiction, compelling them to submit to the domestic laws and regulations of that nation. Jurisdiction obtained in such a manner is contrary to those principles of justice and equity which all nations should respect. Such practice should invalidate any disposition by a municipal court of property thus brought before it. The Government of the United States has, therefore, viewed with surprise and concern the attempt of His Majesty's Government to confer upon the British Prize Courts jurisdiction by this illegal exercise of force in order that these courts may apply to vessels and cargoes of neutral nationalities, seized on the high seas, municipal laws and orders which can only rightfully be enforceable within the territorial waters of Great Britain, or against vessels of British nationality when on the high seas.

(30) In these circumstances the United States Government feels that it cannot reasonably be expected to advise its citizens to seek redress before tribunals which are, in its opinion, unauthorized by the unrestricted application of international law to grant reparation, nor to refrain from presenting their claims directly to the British Government through diplomatic channels.

(31) This Government is advised that vessels and cargoes brought in for examination prior to Prize proceedings are released only upon condition that costs and expenses incurred in the course of such unwarranted procedure, such as pilotage, wharfage, demurrage, harbor dues, warehousing, unloading costs, etc., be paid by the claimants or on condition that they sign a waiver of right to bring subsequent claims against the British Government for these exactions. This Government is loathe to believe that such ungenerous treatment will continue to be accorded American citizens by the Government of

His Britannic Majesty, but in order that the position of the United States Government may be clearly understood, I take this opportunity to inform Your Excellency that this Government denies that the charges incident to such detentions are rightfully imposed upon innocent trade or that any waiver of indemnity exacted from American citizens under such conditions of duress can preclude them from obtaining redress through diplomatic channels or by whatever other means may be open to them.

(32) Before closing this note, in which frequent reference is made to contraband traffic and contraband articles, it is necessary, in order to avoid possible misconstruction, that it should be clearly understood by His Majesty's Government that there is no intention in this discussion to commit the Government of the United States to a policy of waiving any objections which it may entertain as to the propriety and right of the British Government to include in their list of contraband of war certain articles which have been so included. The United States Government reserves the right to make this matter the subject of a communication to His Majesty's Government at a later day.

(33) I believe it has been conclusively shown that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification; that the blockade, upon which such methods are partly founded, is ineffective, illegal, and indefensible; that the judicial procedure offered as a means of reparation for an international injury is inherently defective for the purpose; and that in many cases jurisdiction is asserted in violation of the law of nations. The United States, therefore, cannot submit to the curtailment of its neutral rights by these measures, which are admittedly retaliatory and, therefore illegal, in conception and in nature, and intended to punish the enemies of Great Britain for alleged illegalities on their part. The United States might not be in a position to object to them if its interests and the interests of all neutrals were unaffected by them, but, being affected, it cannot with complacency suffer further subordination of its rights and interests to the plea that the exceptional geographic position of the enemies of Great Britain require or justify oppressive and illegal practices.

(34) The Government of the United States desires, therefore, to impress most earnestly upon His Majesty's Government that it must insist that the relations between it and His Majesty's Government be governed, not by a policy of expediency, but by those established rules of international conduct upon which Great Britain in the past has held the United States to account when the latter nation was a belligerent engaged in a struggle for national existence. It is of the highest importance to neutrals not only of the present day but of the future that the principles of international right be maintained unimpaired.

(35) This task of championing the integrity of neutral rights, which have received the sanction of the civilized world against the lawless conduct of belligerents arising out of the bitterness of the great conflict which is now wasting the countries of Europe, the United States unhesitatingly assumes, and to the accomplishment

of that task it will devote its energies, exercising always that impartiality which from the outbreak of the war it has sought to exercise in its relations with the warring nations.

I enclose as supplements to this instruction the United States Navy Order of August 18, 1862,⁹⁶ and a statement regarding vessels detained by British authorities. These two documents should be transmitted as enclosures in your note to Sir Edward Grey.

I am [etc.]

ROBERT LANSING

[Enclosure]

Statement Regarding Vessels Detained by British Authorities

[WASHINGTON,] September 10, 1915.

(1) Vessels whose cargoes and papers have been of such a character as to require but brief time for examination, have been held in British ports, according to this Government's information, for prolonged periods, in some instances for more than a month, and then released without the institution of prize court proceedings.

The steamer *Chester*, which sailed from Baton Rouge for Rotterdam with a cargo of illuminating oil was taken into Falmouth, September 21, 1914, and held until November 4 of that year.

The steamer *Ocean*, carrying the same kind of a cargo, from New York to Rotterdam, was taken into Plymouth, September 23, 1914, and similarly released November 5.

The steamer *Charlois* and the steamer *New York*, carrying similar cargoes, were taken into British ports on September 30 and October 12, 1914, respectively, and similarly released on October 27.

The steamers *American* and *Rotterdam*, carrying cargoes of oil to Rotterdam, were also detained under conditions similar to those of the vessels just mentioned, in the Fall of 1914.

The Steamer *Christian Knudsen*, carrying a cargo of oil in bulk, consigned to a Danish corporation in Copenhagen, was brought into the port of Kirkwall, detained for eleven days and then released.

Vessels carrying oil from the United States to long established markets in Scandinavian countries have repeatedly been detained without being sent to the prize court for adjudication. Among them may be mentioned the *Brindilla*, the *Platuria*, the *Wico*, the *Polarine*, the *Pioneer*, the *Llama*, the *Muskogee* and the *John D. Rockefeller*.

The steamer *Denver*, which carried a full cargo of cotton from Norfolk to Bremen and which had been loaded under the supervision of a British consular officer, was taken into Kirkwall in January last, as the Department was informed by the British Government, just to examine her papers and to verify her cargo.

⁹⁶ Vol. I, document 133, p. 450.

The *George W. Hawley*, was held for a month because she refused to comply with a requirement of the British authorities to discharge a single shipment, the illegal destination of which does not appear to have been disclosed by any evidence. The vessel carried a mixed cargo, including a shipment of oil. The British authorities insisted that the vessel should discharge the oil, which, the shipper represented, was consigned to one of its long established agents in Sweden. Finally, it was announced that the vessel would be released as an act of grace.

The steamer *Wico* was held by the British authorities last March. This Government was advised that the British Minister at Stockholm had informed the Swedish Foreign Office that the vessel had arrived in a British port with a full cargo of oil for a concern in Stockholm, and that, in view of the recent seizure by a German man-of-war of the steamship *Bryssel* and her cargo, the British Government required complete assurances from the Swedish Government before the *Wico* could be allowed to proceed to destination, that she would not share the fate of the *Bryssel*.

Subsequently this Government was informed that the vessel had been allowed to proceed, but that the British Government felt that, in the event of further cargoes going to Stockholm being seized by German ships, the whole question of permitting oil cargoes to proceed to that destination would have to be seriously reconsidered.

The steamer *Llama*, carrying a cargo of oil to a Scandinavian port, was taken into Kirkwall and subsequently released on June 5 last. After departing from Kirkwall, the ship was again arrested on June 6, and although the officer of the war vessel which seized the *Llama* apparently was shown the ship's release papers, he placed a prize crew on board and ordered the vessel to Aberdeen and thence to Leith, where she was finally released on June 12, although she could not proceed until June 15 owing to a shortage of coal.

(2) Vessels have been held until they have re-consigned their cargoes to a consignee in a neutral country designated by the British Government.

The steamer *Seguranca*, which carried a general cargo from New York to The Netherlands, was detained at a great loss to the owners of the vessel and to the shippers in a British port for the greater part of last April, in order that her cargo might be reconsigned to the Netherlands Oversea Trust. The manifest showed that the entire cargo was consigned to named consignees in The Netherlands and was accompanied by a certificate of the British Consul General in New York stating that the loading was supervised by his inspector and that the vessel contained no cargo other than that specified in the manifest. A large part of the cargo consisting of fresh fruit, stored in the hold of the vessel, was subject to decay with great rapidity.

A similar requirement was imposed on the steamer *F. J. Lisman*, which during last June was detained at London. It appears that, after a prolonged detention of the ship of over a month, representatives of the shippers were compelled to discharge both contraband and non-contraband articles, and that the Captain and the shippers, finding their efforts to comply with the requirements of the British authorities hopeless, abandoned the voyage.

The steamers *A. A. Raven* and *Vitalia*, carrying articles listed as conditional contraband, were detained in a British port in March last until the goods shipped to specified consignees in Holland could be consigned to the Netherlands Oversea Trust.

The steamer *Neches* was detained last May for about two weeks in order that a shipment of cotton destined for Rotterdam might be consigned to the Netherlands Oversea Trust.

The steamer *Zaandijk* was detained last June, as the Department was informed, while the British Minister at The Hague made enquiries as to whether the Netherlands Oversea Trust had accepted the consignment of the cargo.

(3) Detentions have been made without evidence amounting to probable cause: The steamer *Annam* which was detained at Kirkwall last April carried a cargo of food products from the United States to Swedish ports. She was detained owing to a "suspicion", as the British Government stated, that a part of its cargo was destined for Germany.

The steamer *Dronning Olga* was detained at Kirkwall in April last, and the cargo, which consisted of cotton and food products, was placed in the prize court on the ground, as the Department was informed by the British Government, that it was "believed" that it was ultimately destined for Germany.

The steamer *Hilding*, which sailed from New York for Copenhagen with a general cargo consisting largely of food products, was seized and taken into Leith last April, and this Government was informed that the cargo had been seized as contraband with the expectation of holding it under the Order in Council of March 11, 1915,⁹⁷ if the charge that the goods were contraband should fail.

Numerous similar instances might be cited.

The steamers *Christian Knudsen* and *Platuria*, carrying oil from New York to Denmark, were detained by the British authorities last Fall, taken into British ports and held until the British Government, as they stated, could make an investigation as to the destination of the cargoes. Furthermore, this Government was informed that the vessels had been detained pending the receipt of guarantees from Denmark against the exportation of the cargoes

⁹⁷ See document 54.

and that the orders were given for the release of the vessels on the receipt of satisfactory guarantees.

The steamer *Brindilla*, which sailed from New York October 13 last with a cargo of oil for Alexandria, was taken into port at Halifax and later released, as the Department was informed, when the British authorities received information that the ship's cargo was expected at Alexandria.

The steamer *Ambra* was taken into a British port in July last, and this Government was informed that this vessel was held pending inquiries that had been instituted concerning destination of certain items of her cargo. About a week later the vessel was allowed to proceed.

In July last this Government was informed by the British Government that the prolonged detention of the oil steamers *Polarine*, *Platuria* and *Pioneer* was due to the fact that His Majesty's Government's attention had latterly been drawn to the very large quantities of oil which had been shipped to Scandinavian countries during the last few months; that there had been every reason to suspect that some of the oil was destined for enemy countries; and that the arrival of the steamers in quick succession necessitated the institution of inquiries as to the ultimate destination of the oil.

The owners of these vessels and their cargoes complained to the Government of the United States against their detention, stating that the vessels carried the usual cargoes consigned in good faith to long established subsidiaries in neutral countries, and further representing that, since supplies from Russia and Roumania had been prevented from entering Scandinavian ports, a large increase of business with them had been expected, but it had been found that during the first five months of the year 1915 total shipments of all petroleum products to these countries were less than for the same period last year, although business in previous years had steadily increased.

(4) Vessels have been held according to statements of the British Government, because of the manner in which shipments have been consigned.

The steamer *Einar Jarl* was brought into Kirkwall last May and its cargo of cotton seed cake, shipped from Newport News to Denmark, which the shippers represented was to be used exclusively for consumption in Denmark, was seized. This Government was informed that the cargo was discharged because it was consigned "to order."

The steamers *Alfred Nobel*, *Björnstjerne Björnson* and *Friedland* were seized last Autumn because their cargoes were consigned "to order."

The shipments on the steamers *America* and *Artemis* have been placed in Prize Court under the Order in Council of March 11, 1915, because, the goods being consigned by the shippers to themselves, there was no guarantee of their ultimate destination.

(5) Goods have been seized by the British Government on the ground, as this Government has been informed, that the country to which they were shipped had not prohibited their export.

In the Fall of the year 1914, copper shipped from the United States to Sweden on the steamers *Francisco*, *Antares*, *Idaho*, *Tyr* and *Toronto* was seized by the British authorities, because, as the British Government stated, the Swedish Government had not yet prohibited the re-exportation of copper from Sweden.

A consignment of rubber on the Swedish ship *Zamora* had been placed in prize court last January because, as the British Government stated, of the absence of a comprehensive prohibition on the exportation of rubber in all its forms from Denmark.

(6) The British authorities have repeatedly seized articles classified as contraband, articles classified as conditional contraband, as well as non-contraband goods, shipped to Scandinavian countries, to the Netherlands, and to Italy then neutral, although the re-exportation of such commodities from these countries had been forbidden.

In December last, the steamer *Tellus* was ordered to discharge a shipment of copper shipped from New York directly to a consignee in Milan, Italy, although by an Italian decree of November 13, 1914, the exportation of goods shipped in this manner was forbidden.

The steamer *Joseph W. Fordney* was seized four miles off the coast of Norway and, in charge of a prize crew, brought into Kirkwall April 8 last. The ship's manifest showed that the cargo consisted entirely of cattle fodder consigned to a person in Malmö, Sweden. It appeared from information presented to this Government that an affidavit regarding the character and destination of the cargo, made by the shipper of the entire cargo, was attached to the bill of lading, and that this affidavit contained a certification by the British Consul General and Swedish Consul and also a statement by the latter to the effect that the exportation from Sweden of the goods of which the cargo consisted was prohibited. The vessel was brought into a British port and her cargo discharged. This Government was informed by the British Government that, apart from the uncertainty of the address of the consignee of the cargo of this vessel, His Majesty's Government had evidence that the cargo was not destined for *bona fide* Swedish consumption but was intended for Germany.

Numerous other similar instances might be cited, including those of the detention of vessels carrying oil to Scandinavian ports which have been mentioned,

(7) Detentions have been made pending assurances that embargoed goods would be allowed to pass through a neutral country to Great Britain's allies.

The steamer *Leelanaw*, which carried a cargo of cotton from Galveston to Gothenburg for transshipment to Moscow, was detained in a British port early in June last. Relative to the detention of this vessel the British Foreign Office said:

"In view of the fact that cotton has now been placed on the Swedish prohibition of export list, His Majesty's Government have not considered it advisable to allow this large cargo to go on to Gothenburg until they are assured that there is a fair chance of it reaching its declared ultimate destination."

After nearly a month's detention, the vessel was released on the understanding that she should proceed directly to Archangel.

The steamers *Jemtland* and *Sirius* appear to have been recently detained under circumstances similar to those of the steamer *Leelanaw*.

(8) From time to time this Government has been informed of the seizure of cargoes on the ground that consignees have been known to trade with the enemy or because they were suspected of doing so.

In January last this Government was advised by the British Government that the British Government had been compelled to place in prize court a consignment of rubber on board the Swedish vessel *Zamora*, the consignee of these goods being regarded with grave suspicion, and there being reason to believe that the ultimate destination of the rubber was the enemy forces.

(9) Vessels have been seized and brought into port and have been required by the British authorities to pay pilotage, harbor, unloading, warehouse, storage or other dues, costs and expenses in advance of a judicial determination of the validity of the seizure of vessel or cargo.

Instances of such treatment of vessels may be found in the cases of the detention of the steamer *Neches* last May, the *Ogeechee* which was seized last April and the *Antilla* which was seized in February last and subjected to a prolonged detention. In the case of the last-mentioned ship, it appears, however, that the cost of discharging was borne by the British Government.

(10) Detentions of vessels proceeding from European ports:

The steamer *Ogeechee* which left Bremen April 3 last for the United States was detained at Sharpness and compelled to discharge its entire cargo which consisted of approximately 200 shipments of goods urgently needed by American citizens. In most if not all cases it appears that ownership of these goods at the time of the seiz-

ure had passed to American consignees. In many instances American citizens had contracted for the sale of the goods consigned to them and were prevented from carrying out their contracts.

The release of shipments on the vessel has been allowed on the production of proofs of American ownership of the goods prior to March 11, 1915. American consignees in order to avoid loss have endeavored to comply with the requirements in the presentation of proofs.

The steamer *Neches*, which sailed from Rotterdam to the United States was brought to London and compelled in June last to discharge cargo on the ground apparently that the goods originated partly in Belgium. The vessel was detained about a month and, after having been damaged to the extent of approximately £1500 as a result of a collision with another vessel while under the control of the British Admiralty, and after having been involved in litigation growing out of such collision, was allowed to proceed.

The following is a list of the vessels detained prior to March 11th last, among which are some regarding the detention of which details have been briefly stated in this memorandum:

[Here follows a list of 35 vessels.]

The following is an incomplete list of vessels carrying American cargoes which, sailing in practically all instances from American to Scandinavian ports, were diverted by British authorities to the port of Kirkwall, or called at that port under instructions from owners, from March 11, 1915, to June 17, 1915.

[Here follows a list of 275 vessels, with description of cargo, date of arrival in British port, and date of leaving British port.]

The following is an incomplete list of neutral vessels detained in England during the remainder of June and the months of July and August. Precise information regarding the dates of arrival in England and the dates of sailing of these ships and regarding the seizure of cargoes thereon is not yet available:

[Here follows a list of 83 vessels.]

132

*The Secretary of State to the President*⁹⁸

November 2, 1915.

MY DEAR MR. PRESIDENT: I had a talk this morning with Ambassador Bernstorff in regard to the *Lusitania* matter. He is evidently far less hopeful of a settlement satisfactory to this Government of that case than of the *Arabic* case. I think I can understand this

⁹⁸ File No. 763.72/2269a.

attitude in view of the telegrams which we have received from Berlin, and which you have undoubtedly seen, as to the disapproval of his Government of his action in admitting as much as he did. I believe he has been told by his Government that his conduct of that matter was not satisfactory. For that reason I did not feel that I could insist as strongly as I otherwise could that the German Government should admit the wrong and pay indemnity without the intervention of arbitration.

At the time that the Ambassador delivered to me the note which settled the *Arabic* question he also handed me for consideration a draft of a note in regard to the *Lusitania*.⁹⁹ He again produced this draft and said that he felt sure that was as far as his Government could go in the matter. I told him that I would consider the draft further but that in its present form it would be unacceptable to this Government. I will, in a day or two, send you the draft with notes and suggestions as to what, it seems to me, would be satisfactory. The Ambassador said that any suggestions I might have he would have to refer to Berlin as he did not feel he was authorized to accept them without instructions.

I pointed out to him that in view of the fact that they had under their naval instructions ceased to attack passenger vessels I could see no practical reason why they should insist that the attack on the *Lusitania* was justifiable; that there might be a sentimental reason for this insistence in view of the natural dislike which a Government had to admit a wrongful act and that I realized the public opinion in Germany might criticize such an admission. I told him further that I was willing to go as far as possible to relieve that situation but that we also had to deal with public opinion in this country and that in the case of the *Lusitania* it was not a sentimental matter at all but a practical matter and that I thought his Government should admit liability for the loss of life. He said that he was convinced his Government would not make such an admission and that some other method would have to be found to determine liability. I also said to him that I thought the matter should be settled because we had already been extremely patient in the matter. He replied that if we insisted upon an admission of liability he did not believe it could be settled. I said that I regretted very much to have him say that as I felt that the question must be settled and very soon.

He left me with the understanding that I would go over the draft and communicate with him in a few days.

Faithfully yours,

ROBERT LANSING

⁹⁹ Printed as an annex hereto.

[Annex]

*The German Ambassador (Bernstorff) to the Secretary of State*¹

CEDARHURST, N. Y., October 2, 1915.

MY DEAR MR. SECRETARY: Prompted by the desire to reach an amicable understanding about the *Lusitania* incident my Government has given me the following instructions:

The attack on the *Lusitania* formed part of the reprisals enacted by my Government against Great Britain on account of her unlawful starvation policy. In our opinion such reprisals were amply justified by the inhuman British warfare. At that time the Imperial Government had not yet issued the instructions which now regulate our submarine warfare and according to which the *Arabic* case was settled. Even then, however, it was not the intention of the Imperial Government that our reprisals should lead to the loss of the lives of non-combatants. My Government has, therefore, on previous occasions expressed its deep regret that American lives should have been lost on the *Lusitania*.

As you know, the Imperial government does not acknowledge any liability to grant an indemnity in the matter. However, in a spirit of friendship and conciliation the Imperial Government is prepared to submit the question of liability to pay indemnity to the Hague Tribunal.

In your note of July 21st² concerning the *Lusitania* incident the Government of the United States invited the practical cooperation of the Imperial German Government in contending for the principle of the freedom of the seas, and you added that this great object could in some way be accomplished before the present war ends. I am instructed to say that the Imperial Government will at all times gladly cooperate with the Government of the United States for the purpose of accomplishing this great common object.

I remain [etc.]

J. BERNSTORFF

133

*The Secretary of State to the Ambassador in Italy (Page)*³

No. 235

WASHINGTON, November 2, 1915.

SIR: I have received your telegram No. 379 and despatch No. 359, both of August 21, 1915, containing the reply of the Royal Italian Government to your note of August 5th in regard to the blockade of the Adriatic.

¹ File No. 763.72/2235½.² Document 107.³ File No. 763.72112/1547; For. Rel., 1915, supp., p. 177.

I have given careful consideration to the note of the Minister for Foreign Affairs of August 19th in regard to these measures of the Italian Government, and regret to find that it does not remove the objectionable features which this Government finds in those measures. It appears clear from the Royal declarations of May 26 and 28 and July 5 that it is the intention of the Italian Government to cause a blockade to be established along a large part, if not all of the coast of Albania, a country not engaged in the present war, and to establish the line Otranto Aspri Ruga beyond which navigation without permission of Italian authorities is forbidden and will be regarded as a breach of blockade, thereby making the Adriatic practically a closed sea under the control of the Italian Government. The allegation that the Albanian coasts are visited only by the coasting vessels of adjacent countries is not, in the opinion of this Government, as intimated in my previous communication on this subject, a sufficient ground upon which to base a blockade of a non-belligerent country, as Albania is understood to be at the present time. This Government notes the statement of the Italian Government that the neutral territory included in the blockaded zone, that is the coast of Albania, is "invested as a matter of fact and not of law", but notes with surprise a reference to the Naval Conference at London in support of the Italian blockade of Albania. Articles 1 and 18 of the Declaration of London expressly declare that a blockade of a belligerent coast shall not be extended to that of a neutral country nor bar access to neutral ports or coasts. These Articles have been accepted by the Italian Government without modification in its decree of June 3, 1915, adopting the Declaration of London with certain exceptions for the present war. Although this Government does not regard the Declaration of London as of the binding force in the existing war, nevertheless it believes that Articles 1 and 18 accurately state the rule regarding blockade as established by the law and practice of nations for over a century.

That a certain zone of the Adriatic may rightfully be "closed temporarily and withheld from free neutral navigation" seems to this Government so obviously out of accord with the principle of the freedom of the seas, that the mere statement of the proposal is sufficient to show conclusively that this Government can not regard this Italian measure otherwise than as an unallowable transgression of its neutral rights on the high seas.

This Government cannot admit that "the doctrines" or "positive rules of law" do not place "any limit to the exercise of the particular powers of belligerents in maritime warfare" in respect to the closing of a portion of the high seas to innocent neutral navigation, nor that the action of the Italian Government is justified by the

"peculiar conditions of the Adriatic and its coasts, in the relations of traffic and Italian defense."

The Government of the United States, therefore, feels itself bound to reserve its rights by protesting against the prohibition of the freedom of navigation on the high seas of the Adriatic and of access to the neutral shores of that sea and by formally giving notice to the Royal Government that it cannot recognize as valid any action of Italian authorities looking to the enforcement of these prohibitions upon American ships or American citizens. The Government of the United States will accordingly consider it its duty to look to the Italian Government to make reparation for any loss or damage which may result to the United States or its citizens through infringement of their rights by the application of these measures.

I am [etc.]

ROBERT LANSING

134

*The Secretary of State to the President*⁵

November 11, 1915.

MY DEAR MR. PRESIDENT: I submit for your consideration a proposed formula in the *Lusitania* case which, if it meets with your approval, I will discuss orally with the German Ambassador.

You will observe that I have not used the word "disavow" in the formula as I am convinced that the German Government will not be willing to use the word in view of the great dissatisfaction expressed in regard to its use in the settlement of the *Arabic* case. I believe, however, that the last paragraph of the formula may be interpreted as a disavowal and if we can obtain the assent of the German Government to that paragraph it will be interpreted generally as a formal disavowal.

I would like your views in this matter at your earliest convenience as I wish to renew my conversations with the Ambassador as soon as possible.

Faithfully yours,

[Signature]

ROBERT LANSING

[Enclosure]

The sinking of the British Steamship *Lusitania* was in pursuance of a policy of retaliation against the enemies of Germany.

⁵ File No. 763.72/2269b.

The President replied as follows on Nov. 17, 1915 (File No. 763.72/2269½):

"I believe that neither you nor I are satisfied with this formula, but I think that it is probably the best that can be drawn, and I hope that you will press it upon the German Imperial Government. I have kept it in the hope that I could suggest something more satisfactory, but I have not been able to formulate anything that pleased me at all."

Retaliatory measures by a belligerent against an enemy are essentially acts in contravention of the recognized rules of warfare.

Citizens of the United States on the *Lusitania* were justified in the belief that the recognized rules of warfare would be applied in the event that the steamship was intercepted by a German war vessel.

The sinking of the *Lusitania* being in violation of the international rules of naval warfare the act was illegal and so far as the lives of citizens of the United States are concerned imposed upon the German Government liability therefor.

The German Government, having in its instructions to its naval officers issued subsequent to the event shown its recognition that the sinking of the *Lusitania* was contrary to the rules of naval warfare and to the principles of humanity, expresses profound regret that citizens of the United States suffered by reason of the act of its naval authorities in sinking the *Lusitania*, declares it to have been in contravention of international law, and offers to make reparation for the lives of citizens of the United States which were lost, by the payment of a suitable indemnity.

November 11, 1915.

135

*Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff)*⁶

[WASHINGTON,] November 17, 1915.

The German Ambassador called upon me this afternoon at the Department at my request. I told him that it seemed necessary that the *Lusitania* case should be settled if possible within a very short time—that the recent sinking of the *Ancona*,⁷ although acknowledged by Austria to have been done by her submarine, had aroused deep feeling in this country; that the peculiar thing was that in spite of the Austrian admission the blame was falling upon Germany as being the dominant power in the Central Alliance.

The Ambassador said that he realized that that was so and that when I had last seen him I told him I would endeavor to have some suggestions which he might consider.

I told him that I had prepared a formula which seemed to me possible and that I had avoided the use of the word—“disavow”—and substituted in its place an acknowledgement of illegality. I then handed him the paper which is hereto annexed.⁸ He read it through and said that he would submit it to his Government, as he

⁶ File No. 763.72/2270½.

⁷ See document 139.

⁸ Printed as enclosure to document 134, *supra*.

had no authority to go beyond the proposed letter which he had sent me at the time of the settlement of the *Arabic* case.

We further discussed the general situation in this country in regard to submarine warfare. I told him that I hoped this matter could be settled satisfactorily to this Government before the assembling of Congress, as the present resentment of public opinion in this country might cause a serious situation of affairs if the matter was discussed in Congress; that it was even possible that Congress, with whom the power rested, might declare war. He replied that he appreciated the seriousness of the present situation but that he could do no more than submit the formula to his Government; that he considered the great difficulty lay in the admission of liability for the lives of Americans on a British vessel, which they had denied.

I pointed out to him that in view of the changed policy of the German Government and its return to the recognized rules of warfare in the conduct of its submarine activities it would amount to a practical final settlement of the controversy, and that I earnestly hoped he would be able to accomplish this. I further said to him that I realized the difficulty of the German Government in dealing with public opinion in Germany, but that I thought the time was especially opportune on account of our recent note to Great Britain.⁹

He answered me that he was in entire accord as to the advantage of urging a settlement at this time, both on account of the note to England, and on account of the approaching assembling of Congress.

He left me with the understanding that he would immediately send the formula to his Government and ask for instructions.

ROBERT LANSING

136

*The Secretary of State to the President*¹⁰

November 19, 1915.

MY DEAR MR. PRESIDENT: I am afraid that we are coming to an *impasse* in the matter of the *Lusitania*. Day before yesterday I had a conversation with the German Ambassador and submitted to him the possible formula which his Government might employ. He said that he would send it to his Government as his instructions were not broad enough to assent or dissent, but that he was doubtful of his Government admitting any liability for the lives of Americans lost on board of a British vessel.

Of course, if Germany takes this position and we do not recede from our position, which we cannot do, there is a deadlock which no

⁹ Document 131.

¹⁰ File No. 763.72/2270½a.

further diplomatic exchanges would affect, exchanges which, in my opinion, it would be unwise and improper to continue.

From two or three sources, which have been heretofore reliable, I have reports that the German Ambassador has indicated that it is his plan or that of his Government to prolong discussion of the question until the American people had forgotten it and this Government had let it drop.

Whether these reports are true or not I think that delay would cause wide criticism of the Administration as being supine and ready to go any lengths in order to avoid a direct issue with Germany.

Assuming that Germany fails to act promptly on the formula which we have suggested or refuses to acknowledge liability for the loss of American lives on the *Lusitania*, I believe that a situation will arise which will call for definite and firm action on our part and that action should be taken without delay. In order to do this our policy should be determined in advance. It seems to me that we have two courses to pursue. *First*. To sever diplomatic relations by withdrawing Gerard and by handing Bernstorff his passports. *Second*. By laying the facts before Congress and stating that, as further negotiations will be useless, it will be necessary to act, and that, as the action which may be necessary may be of nature involving the question of war or peace, the matter is laid before the branch of the Government charged with power to declare war.

Probably the first method is the simplest and less liable to commit the Government to drastic action. On the other hand the second method would impress the public, I believe, with the fact that the Administration desired the representatives, supposed to be nearest the people, to determine a question which may precipitate war.

From the selfish standpoint of politics I think that the people generally are very much dissatisfied with a continuance of negotiations, that, if our demands are not acceded to, they desire action in asserting our rights, and that if there is further delay, they will turn against the Administration. I believe the pro-German vote in this country is irrevocably lost to us and that, no matter what we do now, we can never win back any part of it. If this view is correct, we ought not from the political standpoint lose the support of the Americans hostile to Germany. And I am afraid that we will do so if we are not rigid in our attitude on the *Lusitania* case. The people have, I think, been patient and considerate in view of the fact that nearly seven months have passed since the vessel was torpedoed. They do not reason out the causes which compelled delay and I doubt if it could be explained satisfactorily to them. At any rate I notice a growing spirit of complaint at what they consider inaction by the Government. The country newspapers as well as letters coming in voice this increasing dissatisfaction.

I should like, therefore, an indication of your views on this subject in order that I may regulate my conversations with Count von Bernstorff accordingly and may be prepared to act promptly if action becomes necessary.

Faithfully yours,

ROBERT LANSING

137

*The President to the Secretary of State*¹¹

21 November, 1915.

MY DEAR MR. SECRETARY: I am quite clear that the position we should take, in conversations with the German Ambassador and in all future dealings with his government in regard to the matters in controversy between us, is

First, that the matter of the *Lusitania* is just as important and just as acute now as it was the day the news of her sinking arrived, and that a failure to secure a satisfactory settlement will disclose the same questions of future action that then lay in the background;

Second, that we now know, as a result of the various communications that have passed between that government and this, that the commander of the submarine which sank the *Lusitania* acted contrary to the instructions which had been given by the Imperial German Admiralty; and

Third, that we should regard a failure to settle this question in the same frank way that the sinking of the *Arabic* was settled would be little less than a repudiation of the assurances then given us and seem to lead back to the very crisis in our relations that was then so happily avoided.

I think the Ambassador cannot be too explicit with his government in this matter.

Is there anyone representing Austria here whom we could get to understand the seriousness of the *Ancona* affair? Or do you feel that you know enough of the facts?

Faithfully Yours,

W. W.

138

*The German Ambassador (Bernstorff) to the Secretary of State*¹²

J. No. A 7615

WASHINGTON, November 25, 1915.

MY DEAR MR. SECRETARY: In answer to your favor of 24th inst. I beg to say that I wrote a confidential report to my Government directly after our last conversation. However, as you know, I have

¹¹ File No. 763.72/2271½.

¹² File No. 763.72/2323½.

no other means for confidential communications to my Government than the mail, so that certainly several weeks will elapse before I shall be able to renew the confidential discussion on the *Lusitania* question with you. As you will kindly remember, I gave you our proposals for a solution of the question nearly two months ago, whilst I have had your counter proposals only since a few days.

Whatever the decision of my Government may be, I feel bound to tell you, as my personal opinion, that my Government will not be prepared to make any further concessions. Permit me to recapitulate in a few words the course of the negotiations as far as I have been intrusted with them. When the first official notes on the *Lusitania* question had been exchanged and had created a tension which made war between our two countries probable, I considered it my duty without instructions from my Government to ask the President to grant me an audience, because I hoped, that I might be able to restore the usual friendly relations between our two Governments. The President at that time kindly outlined his policy to me and on this basis I recommended with all possible emphasis to my Government the policy which has since been adopted. I took up the matter, because the President showed me a common ground on which we could meet, viz. his policy of "the freedom of the seas". Besides, the President left no doubt in my mind that if we gave binding assurances for the future, the past would cause no more friction. As far as I am concerned, I have fully carried out the work I undertook. We have given binding assurances for the future and have adhered strictly to them. In so doing we have been seriously hampered in our reprisals against the British blockade, which you yourself have publicly denounced as illegal. The effect has been that the blockade has not yet been relaxed, but in the contrary tightened, e. g. by the abolishment of the parcel post to Germany. I cannot recognize that the *Ancona* incident has in any way changed the state of affairs, because (1) we are not responsible for it, and (2) the captain of the *Ancona* did not stop when warned. If he had acted according to the rules of maritime warfare, I am convinced that the commander of the Austrian-Hungarian submarine would have let the *Ancona* go on to her destination unmolested.

You expressed the opinion to me, that the note you wrote to the British Government with regard to the blockade might have the influence to induce my Government to make further concessions. Personally I do not believe that my Government will share this view till the action you took against Great Britain has had some effect. My Government has always declared its intention to recognize the declaration of London as binding, if our enemies would do the same. But as long as the latter increase their illegal methods instead of relaxing them, my Government will hardly be inclined to

make any further concessions. Public opinion in Germany would not understand such concessions without any equivalent. I am afraid that if the case of the *Lusitania* is now pressed too much on my Government, the effect will be contrary to the one you desire. By such pressure my Government might be lead to consider that the policy of concessions to the United States for the purpose of obtaining the great and common object of the "freedom of the sea" was wrong and that it would be better to return to a policy of severe reprisals against Great Britain's illegal blockade.

I am [etc.]

J. BERNSTORFF

139

*The Secretary of State to the Ambassador in Austria-Hungary (Penfield)*¹³

[Telegram]

WASHINGTON, December 6, 1915—6 p.m.

1011. Please deliver a note to the Minister of Foreign Affairs, textually as follows:

"Reliable information obtained from American and other survivors who were passengers on the steamship *Ancona* shows that on November 7th, a submarine flying the Austro-Hungarian flag fired a solid shot toward the steamship; that thereupon the *Ancona* attempted to escape but being overhauled by the submarine she stopped; that after a brief period and before the crew and passengers were all able to take to the boats the submarine fired a number of shells at the vessel and finally torpedoed and sank her while there were yet many persons on board; and that by gun-fire and foundering of the vessel a large number of persons lost their lives or were seriously injured, among whom were citizens of the United States.

The public statement of the Austro-Hungarian Admiralty has been brought to the attention of the Government of the United States and received careful consideration. This statement substantially confirms the principal declaration of the survivors, as it admits that the *Ancona* after being shelled was torpedoed and sunk while persons were still on board.

The Austro-Hungarian Government has been advised, through the correspondence which has passed between the United States and Germany, of the attitude of the Government of the United States as to the use of submarines in attacking vessels of commerce and the acquiescence of Germany in that attitude, yet with full knowledge on the part of the Austro-Hungarian Government of the views of the Government of the United States as expressed in no uncertain terms to the ally of Austria-Hungary, the commander of the submarine which attacked the *Ancona* failed to put in a place of safety the crew and passengers of the vessel, which they purposed to destroy because, it is presumed, of the impossibility of taking it into port as a prize of war.

¹³ File No. 865.857 An 2/76a; For. Rel., 1915, supp., p. 623.

The Government of the United States considers that the commander violated the principles of international law and of humanity by shelling and torpedoing the *Ancona* before the persons on board had been put in a place of safety or even given sufficient time to leave the vessel. The conduct of the commander can only be characterized as wanton slaughter of defenseless non-combatants since at the time when the vessel was shelled and torpedoed she was not, it appears, resisting or attempting to escape, and no other reason is sufficient to excuse such an attack, not even the possibility of rescue.

The Government of the United States is forced, therefore, to conclude either that the commander of the submarine acted in violation of his instructions or that the Imperial and Royal Government failed to issue instructions to the commanders of its submarines in accordance with the law of nations and the principles of humanity. The Government of the United States is unwilling to believe the latter alternative and to credit the Austro-Hungarian Government with an intention to permit its submarines to destroy the lives of helpless men, women and children. It prefers to believe that the commander of the submarine committed this outrage without authority and contrary to the general or special instructions which he had received.

As the good relations of the two countries must rest upon a common regard for law and humanity the Government of the United States can not be expected to do otherwise than to demand that the Imperial and Royal Government denounce the sinking of the *Ancona* as an illegal and indefensible act, that the officer who perpetrated the deed be punished, and that reparation by the payment of an indemnity be made for the citizens of the United States who were killed or injured by the attack on the vessel.

The Government of the United States expects that the Austro-Hungarian Government, appreciating the gravity of the case, will accede to its demand promptly; and it rests this expectation on the belief that the Austro-Hungarian Government will not sanction or defend an act which is condemned by the world as inhumane and barbarous, which is abhorrent to all civilized nations, and which has caused the death of innocent American citizens."

Please cable whether or not the Foreign Office has any objection to the United States making this note public on Friday the 10th.

LANSING

140

*The Ambassador in Austria-Hungary (Penfield) to the Secretary of State*¹⁴

[Telegram]

VIENNA, December 15, 1915—5 p. m.

[Received December 16—10:28 p. m.]

1027. Department's 1011, December 6, 6 p.m.

Following note received from Minister for Foreign Affairs noon to-day:

¹⁴ File No. 865.857 An 2/71; For. Rel., 1915, supp., p. 638.

"In reply to the much esteemed note number 4167 which his excellency, Mr. Frederic Courtland Penfield, Ambassador Extraordinary and Plenipotentiary of the United States of America, directed to him in the name of the American Government under date of the 9th instant in the matter of the sinking of the Italian steamer *Ancona*, the undersigned, preliminary to a thorough, meritorious treatment of the demand, has the honor to observe that the sharpness with which the Government of the United States considers it necessary to blame the commanding officer of the submarine concerned in the affair and the firmness in which the demands addressed to the Imperial and Royal Government appear to be expressed might well have warranted the expectation that the Government of the United States should precisely specify the actual circumstances of the affair upon which it bases its case. As is not difficult to perceive, the presentation of the facts in the case in the aforesaid note leaves room for many doubts and even if this presentation were correct in all points and the most rigorous legal conception were applied to the judgment of the case, it does not in any way sufficiently warrant attaching blame to the commanding officer of the war vessel or to the Imperial and Royal Government.

The Government of the United States has also failed to designate the persons upon whose testimony it relies and to whom it apparently believes it may attribute a higher degree of credibility than to the commander of the Imperial and Royal Fleet. The note also fails to give any information whatsoever as to the number, names, and more precise fate of the American citizens who were on board of the said steamer at the critical moment.

However, in view of the fact that the Washington Cabinet has now made a positive statement to the effect that citizens of the United States of America came to grief in the incident in question, the Imperial and Royal Government is in principle ready to enter into an exchange of views in the affair with the Government of the United States. It must, however, in the first place, raise the question why that Government failed to give juridical reasons for the demands set forth in its note with reference to the special circumstances of the incriminating events upon which it itself lays stress, and why in lieu thereof it refused [*referred?*] to an exchange of correspondence which it has conducted with another government in other cases. The Imperial and Royal Government is the less able to follow the Washington Cabinet on this unusual path, since it by no means possesses authentic knowledge of all of the pertinent correspondence of the Government of the United States, nor is it of the opinion that such knowledge might be sufficient for it in the present case, which, in so far as it is informed, is in essential points of another nature than the case or cases to which the Government of the United States seems to allude. The Imperial and Royal Government may therefore leave it to the Washington Cabinet to formulate the particular points of law against which the commanding officer of the submarine is alleged to have offended on the occasion of the sinking of the *Ancona*.

The Government of the United States has also seen fit to refer to the attitude which the Berlin Cabinet assumed in the above mentioned correspondence. The Imperial and Royal Government finds in the much esteemed note no indication whatever of the intent with which this reference was made. Should however the Government of the

United States thereby have intended to express an opinion to the effect that a prejudice [*precedent?*] of whatever nature existed for the Imperial and Royal Government with respect to the juridical consideration of the affair in question this Government must, in order to preclude possible misunderstandings, declare that as a matter of course it reserves to itself full freedom of maintaining its own legal views in the discussion of the case of the *Ancona*.

In having the honor to have recourse to the kindness of his excellency the Ambassador of the United States of America with the most respectful request to be good enough to communicate the foregoing to the American Government and on this occasion to state that the Imperial and Royal Government, in no less degree than the American Government and under all circumstances, most sincerely deplors the fate of the innocent victims of the incident in question, the undersigned at the same time avails himself [etc.] Burian."

PENFIELD

141

*Memorandum by the Secretary of State of a Conversation with the Austro-Hungarian Chargé (Zwiedinek)*¹⁵

[WASHINGTON,] December 18, 1915.

Baron Zwiedinek called this morning for the purpose, apparently, of finding out what the attitude of this Government was to be in regard to the Austrian reply.

He asked me first what impression the reply had made upon this Government and I told him it had made a very bad impression; that I considered it to be more or less frivolous and I was surprised that the Austrian Government supposed for a moment that such a reply would be acceptable to the United States.

He seemed much disturbed at what I said and entered into an argument to show that there might be a question as to the rule of international law when a merchant vessel sought to escape from an enemy even though she subsequently ceased the attempt. I told him that I could not conceive of such a technicality as that being a subject of discussion and that if the Austrian Government sought to advance it I feared that it would irritate rather than help the situation. I went on to say that ever since there had been naval warfare a vessel, unarmed, which was attacked by a warship sought to escape, but that I did not see that the warship obtained the right to destroy people on board after the vessel had practically surrendered. I likened the case to the flight of troops who were finally compelled to surrender and that I thought the murderous attack upon a vessel at rest was very similar to the indefensible slaughter of prisoners.

¹⁵ File No. 865.857 An 2/93½.

Baron Zwiedinek replied that he regretted I held to that view and he still thought that there was argument in the idea that a vessel lost its immunity by seeking to escape. I told him that I thought we could gain nothing by a further discussion of a question which entered into the views as to what was humane when, apparently, we differed so radically as to a belligerent's obligation. He asked me if I did not think we would discuss such questions as that. I told him no, that the only thing that would remove the present crisis would be for Austria to comply at once with our demands; that otherwise I feared the consequences; and that I felt that the blame would be entirely upon his Government.

The Baron suggested as a possible basis of settlement that his Government should promise not to repeat the offense complained of in the case of the *Ancona* and that the questions relative to that case be left for further negotiation. He said that he made this tentatively and without instructions from his Government. In reply I said that it did not seem to me to offer a possible basis for settlement. He then asked me if I would take it under consideration, and I replied that of course I would be willing to do that and would let him know my decision in regard to his suggestion.

Baron Zwiedinek showed very much emotion and left my room with the understanding that if I had anything further to say I would ask him to come again to the Department.

ROBERT LANSING

142

*The Secretary of State to the Ambassador in Austria-Hungary (Penfield)*¹⁰

[Telegram]

WASHINGTON, December 19, 1915—1 p.m.

1039. You are instructed to address a note to the Austro-Hungarian Minister of Foreign Affairs, textually as follows:

"The Government of the United States has received the note of Your Excellency relative to the sinking of the *Ancona*, which was delivered at Vienna on December 15th, 1915, and transmitted to Washington, and has given the note immediate and careful consideration.

On November 15th, 1915, Baron Zwiedinek, the Chargé d'Affaires of the Imperial and Royal Government, at Washington, transmitted to the Department of State a report of the Austro-Hungarian Admiralty with regard to the sinking of the steamship *Ancona* in which it was admitted that the vessel was torpedoed after her engines had been stopped and when passengers were still on board. This

¹⁰ File No. 865.857 An 2/71; For. Rel., 1915, supp., p. 647.

admission alone is, in the view of the Government of the United States, sufficient to fix upon the commander of the submarine which fired the torpedo the responsibility for having wilfully violated the recognized law of nations and entirely disregarded those humane principles which every belligerent should observe in the conduct of war at sea. In view of these admitted circumstances the Government of the United States feels justified in holding that the details of the sinking of the *Ancona*, the weight and character of the additional testimony corroborating the Admiralty's report, and the number of Americans killed or injured are in no way essential matters of discussion. The culpability of the commander is in any case established, and the undisputed fact is that citizens of the United States were killed, injured, or put in jeopardy by his lawless act.

The rules of international law and the principles of humanity which were thus wilfully violated by the commander of the submarine have been so long and so universally recognized and are so manifest from the standpoint of right and justice that the Government of the United States does not feel called upon to debate them and does not understand that the Imperial and Royal Government questions or disputes them.

The Government of the United States therefore finds no other course open to it but to hold the Imperial and Royal Government responsible for the act of its naval commander and to renew the definite but respectful demands made in its communication of the 6th of December, 1915.¹⁷ It sincerely hopes that the foregoing statement of its position will enable the Imperial and Royal Government to perceive the justice of those demands and to comply with them in the same spirit of frankness and with the same concern for the good relations now existing between the United States and Austria-Hungary, which prompted the Government of the United States to make them."

LANSING

143

*The Secretary of State to the German Ambassador (Bernstorff)*¹⁸

December 20, 1915.

MY DEAR MR. AMBASSADOR: I have received your letter of today telling me that your Government had mailed to you explicit instructions in the *Lusitania* case.

It is to be regretted that these instructions were not telegraphed as the time occupied in transit by the mails may seriously affect the negotiation. The protracted delay in the settlement of this controversy, though due to unavoidable causes, is unfortunate and makes it increasingly difficult to adjust our differences.

¹⁷ Document 139.

¹⁸ File No. 763.72/2328½.

I am convinced that you realize, as I do, that the tension in this matter is growing every day, that American public opinion is become more bitter and that this state of affairs cannot continue much longer without the gravest consequences. I fear that a delay of two weeks will be serious and a satisfactory adjustment will be well-nigh impossible then.

In order to avoid a situation, which would make the task of negotiating extremely difficult, might I suggest that your Government repeat the instructions mailed, by telegraph, in order that we may take up the case immediately? In order to make this course possible I am willing that the instructions be sent in cipher through our Embassy at Berlin and this Department, and you may so advise your Government if you agree with me as to the advisability of proceeding with a consideration of the case without further delay.

I am [etc.]

ROBERT LANSING

144

*Memorandum by the Secretary of State of a Conversation with the Austro-Hungarian Chargé (Zwiedinek)*¹⁹

[WASHINGTON,] December 21, 1915.

Baron Zwiedinek called and said he had received two telegrams from his Government which he desired to communicate to me. He then read the telegrams, copies of which are annexed.²⁰ In commenting on them he said he felt very hopeful that his Government would be able to find a satisfactory way to meet the desires of the United States; that he knew they were anxious to preserve friendly relations. I said to him that he must realize that we had taken a position from which we could not recede. He said he knew that; that he thought it was possible that the Austrian Government would be willing to acknowledge that our attitude as to the principle involved should be accepted and that he thought that the difficulty would lie in our demand for the punishment of the commander. I told him it seemed to me that the Commander not only was bound by his instructions, but also by the law and principles of humanity, and that if he violated these he was as guilty as if he had violated his instructions. He replied that if his Government had held a different view as to the principle involved which they now held and had issued instructions in accordance with their former view, that the Commander would certainly not be to blame for following such instructions.

To this I said: "Either the Commander is guilty, or your Government is guilty. If your Government desires to take the responsibility

¹⁹ File No. 865.857 An 2/94½.

²⁰ Not printed.

they should frankly say so, exonerating the Commander, but they should assume his guilt." He replied that that was a very difficult thing for a Government to do. I said I realized that but it seemed to me the only alternative and if it did assume such responsibility it would be necessary for the Austrian Government to apologize, in addition to denouncing the act and offering to indemnify the sufferers.

He said that he would take the matter up immediately with his Government and hoped that they could reach a satisfactory conclusion. He also said that he was very sorry that they had not received his telegrams before they answered our first note, because he thought it would have made a difference in the tone of their reply.

He also asked me what I thought of the advisability of the Austrian Government recalling Consul General vonNuber, as he realized that his presence caused the present newspaper attacks upon him. I told him I thought it would be a way to remove one of the difficulties which we had to face in order to preserve good relations, and doubtless it would be expedient to have him recalled. He said he realized that even if the facts were not proven against vonNuber, which he knew they could not do, at the same time if he was under suspicion he would not be useful as a Consular officer and that he thought he would advise his Government to recall him.

ROBERT LANSING

145

*The Secretary of State to the President*²¹

December 21, 1915.

MY DEAR MR. PRESIDENT: I had a long conversation this afternoon with Senator Stone in regard to our relations with the belligerent countries, and I am disturbed at his attitude. He clearly indicated after we had talked awhile that he thought that we were bearing too severely upon the Teutonic Allies and we were not pressing Great Britain as strongly as we should in insisting upon observance of our trade rights. When I suggested that loss of life seemed to me to require more drastic treatment than loss of property, he replied that they both involved rights. I said to him that the right of life was an inherent right, the loss of which could never be indemnified, but that the right of property was a legal right, which could be fully remedied by an indemnity. I could see, however, that this in no way satisfied him, for he then referred to German Babies dying because Great Britain would not allow us to send them condensed milk, and followed it up with dyes, potash, etc., etc.

²¹ File No. 763.72/2337a.

This seems to me a serious matter, for, while I believe the Senator will not oppose the policies of the Administration, I do not think he will support them whole-heartedly or enthusiastically. This is especially unfortunate with Senator Lodge radically pro-ally at the head of the minority of the Committee, and ready to take advantage of a situation which offers possibilities of political advantage.

Probably Senator Stone is influenced by the fact that he has a considerable German constituency, which he wishes to keep in good humor, but whatever the reason, his ideas of our neutral duty will make it difficult for him to deal with our foreign affairs in a way that will strongly support the Administration and carry through its policies.

I hope that you will find it possible as soon as you return to Washington to ask Senator Stone to come and see you and see if something cannot be done to change his attitude, as it will otherwise make the situation one which will be hard to handle. I do not think the case one which permits much delay.²²

Faithfully yours,

ROBERT LANSING

146

*The Secretary of State to the President*²³

December 28, 1915.

MY DEAR MR. PRESIDENT: As a matter of precaution I think that we should consider what action should be taken in case Austria fails to meet our demands or refuses to do so.

The severance of diplomatic relations, under normal conditions, would not be considered an act of war but merely an expression of disfavor. Under present conditions, however, I feel convinced that that course would be looked upon as hostile by Austria, and would result in war.

If my surmise is correct and war is the inevitable consequence of breaking off relations, should the Government take that action without consulting Congress, the war-making power?

I know from information which has been received from various quarters that the conduct of the Administration, if war results from the stand we have taken in the *Ancona* case, will be attacked on the

²² The President replied on Dec. 24, 1915 (File No. 763.72/2337½):

"This is indeed not a little disturbing, but I think it comes from other quarters than the Senator's own personal thinking. It makes House's errand all the more pressing and opportune. I shall have a talk with the Senator at the earliest possible moment after my return and shall try my best to make the situation as a whole so clear to him that he will take our view of it."

²³ File No. 865.857 An 2/110a.

ground that Congress alone has power to declare war and that the Executive exceeds his power if he brings about a situation which must eventuate in war. Perhaps this would be an unjustifiable criticism, and yet there seems to be a measure of reason in it on account of the constitutional provision. In fact I am not at all certain in my own mind that it is not a sound position.

It might be avoided by laying the papers in the case before Congress with an address dealing with the situation and showing that, while the dignity of the United States precludes continued relations with Austria, the Administration realizes that the severance of relations would in all probability bring about a state of war, and that, therefore, in view of the power conferred on Congress, the papers are presented to it before such action is taken in order to obtain its approval and to avoid any charge of infringement upon the constitutional rights of the Legislative by the Executive.

I do not say that I consider this the best course to pursue, but it has the merit of placing the responsibility where it legally belongs, although the conduct of the negotiations created a situation which seems to offer no other solution than the breaking off of diplomatic relations.

In submitting the foregoing I do so only because it seems to me that possibly the future action should be considered carefully and a decision reached before the time arrives to act.

Faithfully yours,

ROBERT LANSING

147

*The President to the Secretary of State*²⁴

HOT SPRINGS, VA., 29 December, 1915.

MY DEAR MR. SECRETARY: I have your letter of yesterday about our relations with Austria-Hungary.

What new elements in the case make you feel now, what, I remember, you did not feel at the outset of this matter, that a breach of diplomatic relations would probably, rather than possibly, mean war? I do not now recall any new influences that have recently come into the field, and I would very much like to know what has made this impression on your mind.

You may of course be right. All along there has been reason to fear that such might be the outcome. And I quite agree with you that we ought to think our course out very frankly and carefully, blinking nothing.

²⁴ File No. 865.857 An 2/110½.

I do not think that it would be wise in any case to lay the matter publicly before Congress. The most that I could do would be to consult with the leaders on the hill. To lay the matter publicly before Congress would in effect be to announce that we expected war and might be the means of hastening it.

There are some wise and experienced men on the Senate Committee on Foreign Relations and it is quite possible that we might get useful guidance from them. For myself I do not doubt the constitutional powers of the Executive in this connection; but power is a different matter from wise policy.

Your answer to some of the questions I raised or suggested in my last brief note to you on the news from Vienna will necessarily form a part and a very fundamental part of our discussion of the whole situation. If the Imperial and Royal Government thinks that it can put a very different face upon the *Ancona* case by representations which it thinks us bound in fairness to it to consider, how can we refuse to discuss the matter with them until all the world is convinced that rock bottom has been reached?

Cordially and faithfully Yours,

WOODROW WILSON

148

Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff) ²⁵

[WASHINGTON,] December 31, 1915.

The German Ambassador called upon me and handed me the annexed paper, which is the substance of a telegram which he had received from Berlin. He said that this did not complete his instructions in the matter as the telegram said—"to be continued."

The Ambassador said that he appreciated this was going over the ground which we had traversed many times, but he thought that while his Government suggested arbitration he had received an intimation that they would like to know the reasons why we were unwilling to submit the case to arbitration. He added that he believed that his Government, if a fairly good case could be made out against arbitration, would follow the course which had been adopted apparently by Austria in their *Ancona* case.

I answered him that we had discussed the illegality of retaliatory measures by a belligerent and that so far as the legal point of view was concerned I could not see that there was anything to arbitrate. In addition to this I called his attention to the next to the last paragraph in the German reply in the *Frye* case, dated November 29,

²⁵ File No. 763.72/2339½.

1915, wherein they specifically stated that persons on board a vessel about to be sunk should be placed in safety.²⁶ The Ambassador seemed surprised at this statement of his Government and said—"Have they gone as far as that?" I said—"Yes, that is their language and of course it applies as well to belligerent merchant ships as to neutral merchant ships engaged in contraband trade because the only legal ground for sinking a neutral vessel would be its temporary belligerent character."

He said he would communicate with his Government at once in regard to the matter and see if they would not follow out a course which they had so plainly set forth as to the illegality of retaliatory measures, and as to the duties imposed upon the commander of a submarine in sinking a merchant vessel.

He said he was hopeful that we could reach an agreement along these lines.

ROBERT LANSING.

[Annex]

The German Embassy to the Department of State

The German submarine war against England's commerce at sea, as announced on February 4, 1915, is conducted in retaliation of England's inhuman war against Germany's commercial and industrial life. It is an acknowledged rule of international law that retaliation may be employed against acts committed in contravention of the law of nations. Germany is enacting such a retaliation, for it is England's endeavor to cut off all imports from Germany by preventing even legal commerce of the neutrals with her and thereby subjecting the German population to starvation. In answer to these acts Germany is making efforts to destroy England's commerce at sea, at least as far as it is carried on by enemy vessels.

The question whether neutral interests may in any way be injured by retaliatory measures should, in this instance, be answered in the affirmative. The neutrals by allowing the crippling of their commerce with Germany contrary to international law which is an

²⁶ This paragraph reads in part as follows:

"... the German naval forces will sink only such American vessels as are loaded with absolute contraband, when the preconditions provided by the Declaration of London are present. In this the German Government quite shares the view of the American Government that all possible care must be taken for the security of the crew and passengers of a vessel to be sunk. Consequently, the persons found on board of a vessel may not be ordered into her lifeboats except when the general conditions, that is to say, the weather, the condition of the sea, and the neighborhood of the coasts afford absolute certainty that the boats will reach the nearest port. For the rest the German Government begs to point out that in cases where German naval forces have sunk neutral vessels for carrying contraband, no loss of life has yet occurred." (File No. 462.11 Se 8/54; For. Rel., 1915, supp., p. 645.)

established fact, cannot object to the retaliatory steps of Germany for reasons of neutrality. Besides, the German measures, announced in time, are such that neutrals easily could have avoided harmful consequences by not using enemy vessels employed in commerce with England. If Germany has notwithstanding limited her submarine warfare, this was done in view of her long standing friendship with the United States and in the expectation that the steps taken by the American Government in the meantime aiming at the restoration of the freedom of the seas would be successful.

As Germany cannot see a violation of international law in her course of action, she does not consider herself obliged to pay indemnity for damages caused by it, although she sincerely regrets the death of American citizens who were passengers on board the *Lusitania*. In view of the amicable relations between our two countries the German Government is however ready to have differences of opinion settled through international arbitration—a way always warmly recommended by the United States—and therefore to submit to the Court of Arbitration at the Hague the question, whether and to which extent Germany is obliged to pay indemnity for the death of American citizens caused by the sinking of the *Lusitania*. The sentence of the Court should in no way be taken as deciding the question whether or not the German submarine war is justified according to international law, but it would be a means to settle definitively the regrettable *Lusitania* incident.

149

*The Secretary of State to the President*²⁷

January 2, 1916.

MY DEAR MR. PRESIDENT: The enclosed copies of telegrams^{27a} telling of the sinking of the British steamship *Persia* on December 30th about three hundred miles northwest of Alexandria do not, in my opinion, seriously affect the *Ancona* case, since the evidence of torpedoing is inconclusive, the nationality of the submarine, if one was the cause, is unknown, and it is stated that the *Persia* carried an armament.

The fact that the vessel was carrying a 4.7 gun raises a question which, it seems to me, we ought to settle.

Three or four days ago I forwarded to the Italian Ambassador at his request the statement in regard to armed merchant vessels, which we issued in September, 1914.²⁸ I had discussed the question some

²⁷ File No. 763.72/2351a.^{27a} Not printed.²⁸ See footnote 75, p. 384.

four or five weeks before with Mr. Barclay of the British Embassy and told him that, in view of the development of submarines as commerce destroyers, which had been unknown when our statement was issued, I felt that the arming of merchant vessels with any gun, of sufficient calibre to attack a submarine, would make it very difficult, if not impossible, to insist that a submarine should expose itself to attack by coming to the surface and hailing a vessel so armed; and that, while the armament might be termed "defensive", it was capable of being used offensively against a submarine and so, I thought, that a merchant ship carrying a gun or guns would have to be considered and treated as a vessel of war if it entered our ports.

In view of this opinion, which I believe I stated to you orally some time ago, I wrote the Italian Ambassador a letter enclosing the statement of September, 1914, explaining the change of view which the new conditions had forced upon us. I enclose a copy of that letter ²⁹ with our printed statement as to the status of armed merchant vessels.

Since we issued the statement of September, 1914, formally, it appears to me advisable to issue a new statement setting forth the new conditions resulting from the successful employment of submarines in interrupting and destroying commercial vessels, the impossibility of a submarine's communicating with an armed merchant ship without exposing itself to the gravest danger of being sunk by gunfire because of its weakness defensively, the unreasonableness of requiring a submarine to run the danger of being almost certainly destroyed by giving warning to a vessel carrying an armament, and that, therefore, merchant vessels should refrain from mounting guns large enough to sink a submarine, and that, if they do, they become vessels of war and liable to treatment as such by both belligerents and neutrals.

The chief difficulty with the situation seems to me to lie in this: If some merchant vessels carry arms and others do not, how can a submarine determine this fact without exposing itself to great risk

²⁹ The letter, dated Dec. 31, 1915, reads:

"In accordance with your request, I am enclosing memorandum issued by the Department on September 19, 1914, which defined the general rules this Government then felt should be followed in cases involving the status of armed merchant vessels visiting American ports.

Since this memorandum was drawn up the situation has been changed by the use of submarines as commerce destroyers, and for that reason this Government feels that these rules should be modified, as a small caliber gun on a merchant ship is just as effective for purposes of attack against the submarine as the large caliber gun. Therefore, the presence of any gun on a merchant ship of a belligerent nationality could well create presumption that the armament was for offensive purposes, thereby causing this Government to treat the ship as a ship of war." (File No. 763.72111/3509g; For. Rel., 1916, supp., p. 749.)

of being sunk? Unless the Entente Allies positively agree not to arm any of their merchant vessels and notify the Central Powers to that effect, is there not strong reason why a submarine should not warn a vessel before launching an attack?

You will recall the case of the *Baralong* where a German submarine was bombarding a vessel from which the crew had escaped in boats, when a tramp steamer approached flying the American flag. The submarine remained on the surface and awaited the steamer, which on nearing the submarine lowered the American flag, hoisted the British colors, and with a gun mounted on the stern (a defensive armament according to our early definition) opened fire and sank the German vessel killing all the crew. The British Government would urge that this was merely a *ruse de guerre* and entirely allowable, and so it would have been under old conditions, but under the new conditions it presents a strong argument in favor of submarine attack without warning.

Not only, therefore, should we, in my judgment, rewrite our statement as to the status of armed merchant vessels but show that if any vessels of that class is armed, all merchant vessels are in danger of sudden attack without warning. As to the use of the American flag on any merchant ship converted into an armed vessel it might be well also to make representations to the British Government.

In view of the sinking of the *Persia* it would seem to be opportune and advisable to act in this matter, if it is decided to act, as expeditiously as possible.

Faithfully yours,

ROBERT LANSING

150

The Secretary of State to the Ambassador in Great Britain (Page) ⁸⁰

[Telegram]

WASHINGTON, January 4, 1916—11 a. m.

2657. Department advised that British customs authorities removed from Danish Steamer *Oscar II*, 734 bags parcel mail *enroute* from United States to Norway, Sweden and Denmark, that British port authorities have removed from Swedish Steamer *Stockholm* 58 bags parcel mail *enroute* Gothenburg, Sweden, to New York; that 5000 packages of merchandise American property have been seized by British authorities on the Danish Steamer *United States* on her last trip to the United States; that customs authorities at Kirkwall on December 18 seized 597 bags of parcel mail from Steamer *Frederik*

⁸⁰ File No. 841.711/160a; For. Rel., 1916, supp., p. 591.

VIII manifested for Norway, Sweden and Denmark. Other similar cases might be mentioned, such as that of the Steamer *Hellig Olav*. Department inclined to regard parcel post articles as subject to same treatment as articles sent as express or freight in respect to belligerent search, seizure and condemnation. On the other hand parcel post articles are entitled to the usual exemptions of neutral trade and the protests of the Government of the United States in regard to what constitutes the unlawful bringing in of ships for search in port, the illegality of so-called blockade by Great Britain and the improper assumption of jurisdiction of vessels and cargoes apply to commerce using parcel post service for the transmission of commodities. Please bring this matter of parcel post formally to the attention of the British Government.

The Department is further informed that on December 23 the entire mails, including sealed mails and presumably the American diplomatic and consular pouches, from the United States to the Netherlands were removed by British authorities from the Dutch Steamer *Nieuw Amsterdam*; that on December 20 the Dutch vessel *Noorderdijk* was deprived at the Downs of American mail from the United States to Rotterdam, and that these mails are still held by British authorities. Other similar instances could be mentioned, as the cases of the Steamers *Rotterdam* and *Noordam*. The Department cannot admit the right of British authorities to seize neutral vessels plying directly between American and neutral European ports without touching at British ports, to bring them into port, and, while there, to remove or censor mails carried by them. Modern practice generally recognizes that mails are not to be censored, confiscated or destroyed on high seas even when carried by belligerent mail ships. To attain same end by bringing such mail ships within British jurisdiction for purposes of search and then subjecting them to local regulations allowing censorship of mails cannot be justified on the ground of national jurisdiction. In cases where neutral mail ships merely touch at British ports the Department believes that British authorities have no international right to remove the sealed mails or to censor them on board ship. Mails on such ships never rightfully come into the custody of the British mail service and that service is entirely without responsibility for their transit or safety.

As a result of British action, strong feeling is being aroused in this country on account of the loss of valuable letters, money orders and drafts, and foreign banks are refusing to cash American drafts owing to the absence of any security that the drafts will travel safely in the mails. Moreover the detention of diplomatic and consular mail is an aggravating circumstance in a practice which is generally regarded in this country as vexatiously inquisitorial and with-

out compensating military advantage to Great Britain. Please lay this matter immediately before the British Government in a formal and vigorous protest and press for a discontinuance of these unwarranted interferences with inviolable mails. Impress upon Sir Edward Grey the necessity for prompt action in this matter.

LANSING

151

*The Secretary of State to the President*³¹

January 7, 1916.

MY DEAR MR. PRESIDENT: I have been thinking over, as I know you have, some means of placing submarine warfare on a basis which will prevent the horrors which have characterized it in the past.

I think that I appreciate the German point of view in regard to the danger to a submarine in attacking an armed merchant vessel, and have prepared a memorandum on the subject, which I enclose.

If the argument has merit the method of reaching a settlement on a basis which would safeguard human life would seem to be an agreement by Germany and Austria not to torpedo enemy vessels without putting the people on board in safety, provided they did not continue to flee, in consideration of an agreement by the Entente Powers not to permit their merchant ships to carry an armament.

I am sure the Teutonic Powers would agree to this, and I cannot see how the Entente Powers could reasonably object to such an arrangement, particularly in view of the fact that there is no case recorded to my knowledge of a submarine being destroyed by gunfire from a merchant vessel.

This plan would be practically a *modus vivendi* and could be made reciprocal on account of the activities of British submarines in the Baltic.

Would you advise my attempting to obtain such agreements?

Faithfully yours,

ROBERT LANSING

[Enclosure]

Memorandum by the Secretary of State

January 7, 1916.

The arming of merchant vessels is allowable when the armament is of a character which can be only used defensively.

³¹ File No. 763.72/2351½.

When the statement as to the Status of Armed Merchant Vessels was issued in September, 1914, by the Department of State, the assertions contained as to the limitation of armament, which would give it a defensive character, was based on the use of naval ships in intercepting private commercial vessels. It was predicated manifestly on the defensive strength of ships of war, otherwise there would be no necessity to consider any restriction upon the armament carried by a merchant vessel.

Since the statement was issued the submarine has become a practical and successful agent in the capture and destruction of vessels of commerce, and, as a result, the principle on which the arming of merchant ships is declared to be allowable, should be applied to the new conditions created by this instrument of naval warfare.

Comparison of the defensive strength of naval vessels operating on the surface and submarines shows that the latter are almost defenseless in construction, their only means of protection from an enemy being their power to submerge. A merchant ship carrying a small calibre gun could destroy with one shot a submarine provided it came to the surface within range. Thus an armament, though falling within the limitations of defensive armament as previously defined, may be used effectively against a submarine. If it can be so used, it would appear to lose its defensive character.

The rule of visit, which is the only means of protecting private vessels engaged in commerce from being suddenly attacked and is the only means of putting in force the rule that the people on board shall be put in safety before a vessel is sunk, could hardly be required justly of a submarine, if the observation of the rule compels the submarine to expose itself to almost certain destruction by coming to the surface and offering itself as a target to a gun mounted on the merchant ship which it is required to hail and order to "lie to."

If it is admitted that a submarine may be employed in intercepting enemy's commerce and that in doing this it must hail vessels and put the passengers and crews in places of safety, it would appear to be a reasonable requirement that all merchant vessels should be without armament of any sort since a gun of whatever calibre and wherever mounted could be used offensively against a submarine on the surface with good prospect of destroying it.

A merchant vessel, therefore, carrying an armament should be treated by a belligerent or a neutral as an armed ship of the enemy and not possess the immunities attaching to private commercial vessels of belligerent nationality as now set forth in the rules of international law.

152

*The Secretary of State to the President*³²

January 7, 1916.

MY DEAR MR. PRESIDENT: The German Ambassador has just called upon me and stated that he was instructed by his Government to say, in the first place, that they had heard through the press reports of the sinking of the *Persia* and that they had no information whatsoever in regard to it.

He then handed me a communication which he was also instructed to deliver, setting forth the attitude of the German Government in regard to submarine warfare in the Mediterranean. At his request I am making public this statement.

The Ambassador then handed me a communication in regard to the *Lusitania* case, which he said his Government wished to be considered confidential unless it was satisfactory to this Government, when it could be embodied in a more formal document. I enclose the communication, together with one marked "strictly confidential" relating to arbitration of questions of fact in connection with submarine warfare.^{32a}

I have not studied the proposed reply of Germany in regard to the *Lusitania* with sufficient care to express a final opinion. There is lacking any recognition of liability since the indemnity which they proposed to pay is, in fact, on the basis of comity and not on the basis of right—at least that is my view at present. If in any way the agreement to pay the indemnity can be construed into a recognition of liability it would seem as if a final settlement of the case was very near.

I also enclose for your information an extract from the reply of the German Government in the *Frye* case,^{32b} which has a direct bearing on submarine warfare in general and must be read, I think, with these other communications. In view of that declaration I do not see why the German Government is not willing to definitely admit liability in the *Lusitania* case.

The German Ambassador desires that the reply in the *Frye* case should be made public and, as I could see no reason to withhold it, I agreed to do so.

I hope that I may soon receive your views in regard to the communication relative to the *Lusitania* as I think the negotiation, if it is to be continued, should be pressed to speedy settlement.

Faithfully yours,

ROBERT LANSING

³² File No. 841.857 L 97/124½.

^{32a} Not printed.

^{32b} See footnote 26, p. 429.

[Enclosure 1]

The German Embassy to the Department of State

WASHINGTON, [undated.]

(1) German submarines in the Mediterranean had, from the beginning, orders to conduct cruiser warfare against enemy merchant vessels only in accordance with general principles of international law, and in particular, measures of reprisal, as applied in the war zone around the British Isles, were to be excluded.

(2) German submarines are therefore permitted to destroy enemy merchant vessels in the Mediterranean, i. e., passenger as well as freight ships as far as they do not try to escape or offer resistance, only after passengers and crews have been accorded safety.

(3) All cases of destruction of enemy merchant ships in the Mediterranean in which German submarines are concerned are made the subject of official investigation, and besides, submitted to regular prize court proceedings. In so far as American interests are concerned, the German Government will communicate the result to the American Government. Thus also in the *Persia* case if the circumstances should call for it.

(4) If commanders of German submarines should not have obeyed the orders given to them, they will be punished; furthermore, the German Government will make reparation for damage caused by death of or injuries to American citizens.

[Enclosure 2]

The German Embassy to the Department of State

The German submarine war against England's commerce at sea, as announced on February 4, 1915, is conducted in retaliation of England's inhuman war against Germany's commercial and industrial life. It is an acknowledged rule of international law that retaliation may be employed against acts committed in contravention of the law of nations. Germany is enacting such a retaliation, for it is England's endeavor to cut off all imports from Germany by preventing even legal commerce of the neutrals with her and thereby subjecting the German population to starvation.

In answer to these acts Germany is making efforts to destroy England's commerce at sea, at least as far as it is carried on by enemy vessels.

The question whether neutral interests may in any way be injured by retaliatory measures should, in this instance, be answered in the affirmative. The neutrals by allowing the crippling of their commerce with Germany contrary to international law which is an

established fact cannot object to the retaliatory steps of Germany for reasons of neutrality. Besides, the German measures, announced in time, are such that neutrals easily could have avoided harmful consequences by not using enemy vessels employed in commerce with England. If Germany has notwithstanding limited her submarine warfare, this was done in view of her long standing friendship with the United States and in the expectation that the steps taken by the American Government in the meantime aiming at the restoration of the freedom of the seas would be successful.

The German Government, on the other hand, recognizes from the course which the negotiations so far have taken, the difficulty to reconcile in principle the American and the German point of view, as the interests and legal aspects of the neutrals and belligerents naturally do not agree in this point and as the illegality of the English course of procedure can hardly be recognized in the United States as fully as it is in Germany. A perpetuation of this difference of opinion, however, would not tend to further the amicable relations between the United States and Germany which have never been disturbed and the continuation of which is so sincerely desired by both Governments. Actuated by this spirit the Imperial Government again expresses its deep regret at the death of American citizens caused by the sinking of the *Lusitania* and, in order to settle this question amicably, declares its readiness to pay indemnity for the losses inflicted.

153

*The President to the Secretary of State*³³

10 January, 1916.

MY DEAR MR. SECRETARY: I have tried hard to find something in this note³⁴ about the *Lusitania* out of which a satisfactory answer to our demands could be made, but must admit that I have failed. It is a concession of grace, and not at all of right.

And yet I do not see that it would be essentially out of tune with it if the Imperial Government were to say that, even while it was arguing and without abatement insisting on the necessity for retaliation and even the right to retaliate, it was not willing to make that necessity an excuse for abbreviating the rights of neutrals or for unnecessarily imperiling the lives of non-combatants, and that, therefore, while wishing to make very plain the imperative grounds for its recent policy, it was ready to recognize very frankly the justice of the contentions of the United States with regard to the rights of

³³ File No. 841.857 L 97/125½.

³⁴ See enclosure 2 to document 152, *supra*.

American citizens and assume the responsibility which she (the Imp. Gov.) had incurred by the incidental ignoring of those rights on the occasion referred to.

She could in this wise put Great Britain more obviously in the wrong as compared with herself, by showing that she, in contrast with Great Britain, was willing to make good for the damage done neutrals.

I understand you had a conference with Bernstorff to-day. Do you think from the present aspect of the situation that a suggestion such as I have outlined would set the settlement a step forward, or not?

Faithfully yours,

W. W.

154

*Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff)*⁸⁵

[WASHINGTON,] January 10, 1916.

The German Ambassador called this morning and read me a wireless dispatch which he had received from his Government, a copy of which he handed me, upon the understanding that it would be treated as strictly confidential.

After I had made a few comments on the dispatch I referred directly to the *Lusitania* case and said that I feared that the proposed note, copy of which he had given me, would not be satisfactory; that the question of indemnity was only important so far as it was an admission of liability; and that as I read his draft of the note the indemnity was given as an act of grace and not because Germany was liable for illegal conduct. I told him that I thought it was necessary that Germany should admit liability frankly as that would amount to a disavowal, and disavowal in some form we must have.

He replied that they had great difficulty on account of Great Britain's continuance of her illegal blockade and that the German public, and many in the Government were not willing to abandon the policy of reprisals.

I told him that I did not see that that was at all necessary; that while there might be justification for retaliation against Great Britain, that retaliation was necessarily illegal conduct in a strict sense and that all it was necessary to do was to admit that it was illegal and that insofar as neutrals were concerned it imposed liability on the German Government. I said to him that that was

⁸⁵ File No. 841.857 L 97/126½.

the same course we were taking with regard to Great Britain—that Great Britain's interruption of trade to Germany was admittedly retaliatory and that it, therefore, was illegal and so far as neutrals were concerned it imposed liability on Great Britain; and that I could not see how we could treat the matter differently with the two Governments.

He told me he would at once communicate these views to his Government in the hope that a course might be found which would meet our views.

ROBERT LANSING

[Annex]

The German Foreign Office to the German Embassy at Washington

We have modified submarine war, waged in retaliation against illegal English starvation policy, to meet American wishes. Result was that submarine war lost considerably in efficiency. This was done in consideration of valued friendly relations which Germany desires continued with America. In return we expected that U. S. Government would contend with us for freedom of seas and obtain from England reestablishment of legitimate neutral trade with Germany. The United States on November fifth sent note to England ^{35a} to which apparently no reply has been made, at any rate no concessions obtained from England. Instead, British Government recently published White Paper enumerating all measures which tend to cut off Germany from legitimate commerce and to control neutrals. American Note which was very much to the point exposed the illegality of these measures.

Since August last and, even before Germany modified submarine war, if incidents happened they were regrettable mistakes for which due reparation has been made. Germany showed good will by making concessions seriously affecting efficiency of submarine war. England has conceded nothing but instead boasts of more and more success in strangling Germany. We therefore may expect and should be grateful if America at last takes energetic steps to establish real freedom of seas.

155

The Secretary of State to the President ³⁶

January 17, 1916.

MY DEAR MR. PRESIDENT: I enclose for your consideration the draft of a letter to the British Ambassador dealing with the sub-

^{35a} Dated Oct. 21, 1915; document 131.

³⁶ File No. 763.72/2352½a.

marine question, and suggesting a method by which future loss of life on merchant vessels might be avoided.^{36a}

My first inclination was to send letters to the German Ambassador and Austrian Chargé, but two reasons prevented; first, I was convinced that the German and Austrian Governments would assent to the proposal as it only required them to conform to the rules of international law, while it required their enemies to modify a present practice which might be construed into the relinquishment of a legal right; and, second, if Germany and Austria acceded promptly to the suggestion, any demur by Great Britain, France, Italy or Belgium would, if it became known (as it would undoubtedly through the German or Austrian Embassies), arouse adverse criticism in the press of this country and excite public resentment against the Entente Powers, which appears to be increasing from day to day.

By adopting this method of approach the proposal can be kept secret if it is refused by the Entente Governments and if it is considered inexpedient to make it public.

Faithfully yours,

ROBERT LANSING

156

*The Secretary of State to the British Ambassador (Spring Rice)*³⁷

WASHINGTON, January 18, 1916.

MY DEAR MR. AMBASSADOR: It is a matter of the deepest interest to my Government to bring to an end, if possible, the dangers to life which attend the use of submarines as at present employed in destroying enemy commerce on the high seas, since on any merchant vessel of belligerent nationality there may be citizens of the United States who have taken passage or are members of the crew, in the exercise of their recognized rights as neutrals. I assume that Your Excellency's Government are equally solicitous to protect their nationals from the exceptional hazards which are presented by their passage on a merchant vessel through those portions of the high seas in which undersea craft of their enemy are operating.

While I am fully alive to the appalling loss of life among non-combatants, regardless of age or sex, which has resulted from the present method of destroying merchant vessels without removing the persons on board to places of safety, and while I view that practice

^{36a} Draft not printed; letter printed *infra*.

³⁷ File No. 763.72/2357a; For. Rel., 1916, supp., p. 146.

The same, *mutatis mutandis*, on the same date, to the French and Russian Ambassadors and the Belgian Minister, on Jan. 19, 1916, to the Italian Ambassador, and on Jan. 24 to the Japanese Ambassador.

as contrary to those humane principles which should control belligerents in the conduct of their naval operations, I do not feel that a belligerent should be deprived of the proper use of submarines in the interruption of enemy commerce since these instruments of war have proven their effectiveness in this particular branch of warfare on the high seas.

In order to bring submarine warfare within the general rules of international law and the principles of humanity without destroying its efficiency in the destruction of commerce, I believe that a formula may be found which, though it may require slight modifications of the practice generally followed by nations prior to the employment of submarines, will appeal to the sense of justice and fairness of all the belligerents in the present war.

Your Excellency will understand that in seeking a formula or rule of this nature I approach it of necessity from the point of view of a neutral, but I believe that it will be equally efficacious in preserving the lives of all non-combatants on merchant vessels of belligerent nationality.

My comments on this subject are predicated on the following propositions:

1. A non-combatant has a right to traverse the high seas in a merchant vessel entitled to fly a belligerent flag and to rely upon the observance of the rules of international law and principles of humanity if the vessel is approached by a naval vessel of another belligerent.

2. A merchant vessel of enemy nationality should not be attacked without being ordered to stop.

3. An enemy merchant vessel, when ordered to do so by a belligerent submarine, should immediately stop.

4. Such vessel should not be attacked after being ordered to stop unless it attempts to flee or to resist, and in case it ceases to flee or resist, the attack should discontinue.

5. In the event that it is impossible to place a prize crew on board of an enemy merchant vessel or convoy it into port, the vessel may be sunk, provided the crew and passengers have been removed to a place of safety.

In complying with the foregoing propositions which, in my opinion, embody the principal rules, the strict observance of which will insure the life of a non-combatant on a merchant vessel which is intercepted by a submarine, I am not unmindful of the obstacles which would be met by undersea craft as commerce destroyers.

Prior to the year 1915 belligerent operations against enemy commerce on the high seas had been conducted with cruisers carrying heavy armaments. Under these conditions International Law appeared to permit a merchant vessel to carry an armament for defen-

sive purposes without losing its character as a private commercial vessel. This right seems to have been predicated on the superior defensive strength of ships of war, and the limitation of armament to have been dependent on the fact that it could not be used effectively in offense against enemy naval vessels, while it could defend the merchantman against the generally inferior armament of piratical ships and privateers.

The use of the submarine, however, has changed these relations. Comparison of the defensive strength of a cruiser and a submarine shows that the latter, relying for protection on its power to submerge, is almost defenseless in point of construction. Even a merchant ship carrying a small calibre gun would be able to use it effectively for offense against a submarine. Moreover, pirates and sea-rovers have been swept from the main trade channels of the seas, and privateering has been abolished. Consequently, the placing of guns on merchantmen at the present day of submarine warfare, can be explained only on the ground of a purpose to render merchantmen superior in force to submarines and to prevent warning and visit and search by them. Any armament, therefore, on a merchant vessel would seem to have the character of an offensive armament.

If a submarine is required to stop and search a merchant vessel on the high seas and, in case it is found that she is of enemy character, and that conditions necessitate her destruction, to remove to a place of safety all persons on board, it would not seem just or reasonable that the submarine should be compelled, while complying with these requirements, to expose itself to almost certain destruction by the guns on board the merchant vessel.

It would, therefore, appear to be a reasonable and reciprocally just arrangement if it could be agreed by the opposing belligerents that submarines should be caused to adhere strictly to the rules of international law in the matter of stopping and searching merchant vessels, determining their belligerent nationality, and removing the crews and passengers to places of safety before sinking the vessels as prizes of war, and that merchant vessels of belligerent nationality should be prohibited and prevented from carrying any armament whatsoever.

In presenting this formula as a basis for conditional declarations by the belligerent governments, I do so in the full conviction that your Government will consider primarily the humane purpose of saving the lives of innocent people rather than the insistence upon a doubtful legal right which may be denied on account of new conditions.

I would be pleased if you would be good enough to bring this suggestion to the attention of your Government and inform me of their

views upon the subject and whether they would be willing to make such a declaration conditioned upon their enemies making a similar declaration.

A communication similar to this one has been addressed to the Ambassadors of France, Russia and Italy and the Minister of Belgium at this capital.

I should add that my Government is impressed with the reasonableness of the argument that a merchant vessel carrying an armament of any sort, in view of the character of submarine warfare and the defensive weakness of undersea craft, should be held to be an auxiliary cruiser and so treated by a neutral as well as by a belligerent government, and is seriously considering instructing its officials accordingly.

I am [etc.]

ROBERT LANSING

157

*The German Ambassador (Bernstorff) to the Secretary of State*³⁸

J. No. A 530

WASHINGTON, January 22, 1916.

MY DEAR MR. SECRETARY: I beg to thank you for your note of January 21st by which you kindly transmitted to me a cipher message from the German Foreign Office concerning the *Lusitania* case.

As it is too late to trouble you this afternoon I beg to submit to you confidentially the two enclosed drafts of memoranda, which are both based on the instructions I received to-day. I sincerely hope that one of the two will prove satisfactory to you and that we may at last settle this old case.

I should be very much obliged to you, if you would kindly let me know by telephone when I may have the pleasure of discussing the matter with you on Monday.

Believe me [etc.]

J. BERNSTORFF

[Enclosure 1]

The German Embassy to the Department of State

A

The German submarine war against England's commerce at sea, as announced on February 4, 1915, is conducted in retaliation of England's inhuman war against Germany's commercial and industrial life. It is an acknowledged rule of international law that retaliation may be employed against acts committed in contravention of the law of nations. Germany is enacting such a retaliation, for it is England's endeavor to cut off all imports from Germany by

³⁸ File No. 841.857 L 97/128½.

preventing even legal commerce of the neutrals with her and thereby subjecting the German population to starvation. In answer to these acts Germany is making efforts to destroy England's commerce at sea, at least as far as it is carried on by enemy vessels. If Germany has notwithstanding limited her submarine warfare this was done in view of her long standing friendship with the United States and in the expectation that the steps taken by the American Government in the meantime aiming at the restoration of the freedom of the seas would be successful.

The German Government, on the other hand, recognizes from the course which the negotiations so far have taken the difficulty to reconcile in principle the American and the German point of view, as the interests and legal aspects of the neutrals and belligerents naturally do not agree in this point and as the illegality of the English course of procedure can hardly be recognized in the United States as fully as it is in Germany. A perpetuation of this difference of opinion, however, would not tend to further the amicable relations between the United States and Germany which have never been disturbed and the continuation of which is so sincerely desired by both Governments. Actuated by this spirit the Imperial Government again expresses its deep regret at the death of American citizens caused by the sinking of the *Lusitania* and, in order to settle this question amicably, declares its readiness to pay indemnity for the losses inflicted.

[Enclosure 2]

The German Embassy to the Department of State

B

The attack on the *Lusitania* formed part of the reprisals enacted by the Imperial Government against Great Britain on account of her illegal starvation policy. According to the German opinion such reprisals were amply justified by the inhuman British warfare. At that time the Imperial Government had not yet issued the instructions which now regulate the German submarine warfare and according to which the *Arabic* case was settled. These instructions were issued with regard to the friendship of many years' standing between Germany and the United States and in expectation that the steps the American Government has undertaken in the meantime to reestablish the freedom of the seas would be successful. Even before these instructions were issued it was, however, not the intention of the Imperial Government that our reprisals should lead to the loss of the lives of noncombatants. My Government has, therefore, on previous occasions expressed its deep regret that American lives should have been lost on the *Lusitania*.

As for the question whether the Imperial Government is obliged to grant an indemnity in this case, it appears from the negotiations which have hitherto taken place that a further accentuation of the difference of opinion which has arisen on this point would not be apt to promote the friendly relations between Germany and the United States which both Governments have at heart and which so far have never been troubled. In a spirit of friendship and conciliation, therefore, the Imperial Government in order to settle definitely the *Lusitania* incident, declare themselves willing to grant an indemnity for the lives of American citizens which were lost by the sinking of the boat.

158

*The Secretary of State to the President*³⁹

January 24, 1916.

MY DEAR MR. PRESIDENT: I received late Saturday night a letter from Count Bernstorff enclosing two drafts of memoranda^{39a} in the *Lusitania* case. Copies of these papers I am sending you.

Neither of the drafts seems to me to be at all satisfactory. There is no acknowledgment of the illegality of the sinking of the *Lusitania* and no admission of liability for the indemnity offered. The proposed memoranda are no improvement over the last one which the Ambassador submitted. They come no nearer meeting our demands. The offer of indemnity is based on good will; it is an act of grace and not a matter of right.

I shall not see the Ambassador until I have your opinion of this last effort to settle the controversy, but, when I do, I am disposed to tell him very frankly that further conversations will be useless as they do not appear to bring us any nearer together, and that there seems to be no other course but to make a formal demand upon the German Government for admission of illegal conduct by the submarine commander and of liability for the lives of citizens of the United States destroyed by the sinking of the vessel.

It does not seem to me to be in accord with the dignity of this Government to continue these informal negotiations which have become purely dilatory and offer no possible middle ground for an agreement.

Of course if we take this step and Germany fails to comply with our demands it will mean that we will have to send Bernstorff home or announce that we will do so unless full satisfaction is given within a definite time. While I dislike this course I see no alternative. We have delayed bringing this matter to a direct issue as long as we can. I had hoped a satisfactory settlement through delay.

³⁹ File No. 841.857 L 97/128½.

^{39a} Printed as enclosures to document 157, *supra*.

With more or less justice there has been increasingly severe public criticism of the policy pursued by the Government. If I felt that all would come right in the end I would be indifferent to public comment, but in view of these drafts of memoranda I am convinced that further delay will accomplish no good purpose and will only add to the belief that we are not insisting on compliance as we should.

It is possible that a demand, which the German Government understands to be inflexible, will accomplish more than our informal negotiations have accomplished. I do not think that they want a diplomatic break, and, if they are convinced that compliance is the only way to avoid it, they may submit. In any event I see no other course which we can honorably take.

I would like to see you as early today as possible or else talk with you over the telephone, in order that I may arrange an interview with Count Bernstorff as he requests.

Faithfully yours,

ROBERT LANSING

159

*The President to the Secretary of State*⁴⁰

24 January, 1916.

MY DEAR MR. SECRETARY: I do not see wherein this memorandum^{40a} differs from that previously submitted and which we declared unsatisfactory. I entirely agree with you that we cannot accept it as a recognition of our rights. It is only a concession as of grace.

You will remember the despatch I sent you from House, in which he asks that we take no steps against Germany until we receive the letter which he was to send by a steamer leaving England last Wednesday, the nineteenth of January. I have not the least idea what that letter contains, but I do not think that it would be prudent to take any step towards a diplomatic break before we know what is in it.

I hope, therefore, that you will until then only see Bernstorff and let him know that the reply he has submitted is not satisfactory and seems to close conversations unless his government can see its way to a change of attitude, and then feel your way for a few days. House's letter ought to reach us by the twenty-seventh. I assume it will come in the pouch from London.

Or would it be practicable and wise to put Bernstorff off until then?

Faithfully Yours,

W. W.

^{40a} See document 158, *supra*.

^{40a} See document 158, *supra*.

160

*The Secretary of State to the Ambassador in Great Britain (Page)*⁴¹

[Telegram]

WASHINGTON, *January 25, 1916—1 p. m.*

2774. Your 3601 and 3602 January 19.

Department has given consideration to Enemy Trading Act approved December 23d last, the apparent object of which is to prevent any person doing business in the United Kingdom from trading with the enemies of Great Britain or persons having enemy association in any other part of the world, and the Department has reached the conclusion that this act is pregnant with possibilities of undue interference with American trade, if in fact such interference is not now being practiced. As it is an opinion generally held in this country, in which this Government shares, that the Act has been framed without a proper regard for the right of persons domiciled in the United States, whether they be American citizens or subjects of countries at war with Great Britain, to carry on trade with persons in belligerent countries, and that the exercise of this right may be subject to denial or abridgement in the course of the enforcement of the Act, the Government of the United States is constrained to express to His Majesty's Government the grave apprehensions which are entertained on this subject by this Government, by the Congress and by traders domiciled in the United States. It is, therefore, necessary to bring these views to the attention of Sir Edward Grey and to present to him a formal reservation, on the part of this Government, of the right to protest against the application of this Act, insofar as it affects the trade of the United States, and to contest the legality or rightfulness of imposing restrictions upon the freedom of American trade in this manner.

LANSING

161

*The Ambassador in Great Britain (Page) to the Secretary of State*⁴²

[Telegram]

LONDON, *January 25, 1916—11 p. m.*

[Received January 26—7.30 a. m.]

3648. Sir Edward Grey sent for me this afternoon to talk about the Administration's proposals about submarine warfare and about forbidding any merchantman from carrying a gun astern for defensive use. I was obliged to tell him that I knew nothing about such pro-

⁴¹ File No. 763.72112/2229; For. Rel., 1916, supp., p. 339.

⁴² File No. 763.72/2355½; For. Rel., 1916, supp., p. 151.

posals. He seemed disappointed [and then] he showed me a telegram on the subject from Spring Rice, not omitting Sir Edward's telegram of today in reply.

I have only once before seen Sir Edward so grave and disappointed and that was when he informed me that the British had sent the German Government an ultimatum. After he discovered that I had not been informed of the subject he seemed disposed to say little. He did say, however, that he indulged the hope that the Department had not foreseen the results of the proposal which was wholly in favor of the Germans theoretically and practically [and] wholly against the Allies. Then he asked me for House's address because as I gathered he had talked with him at my table so frankly and freely about the relations of our two Governments that he thought he ought to inform House that he [did not] then know that this proposal would come. He spoke as one speaks of a great calamity. He said that he would not mention the subject in his speech in the House of Commons tomorrow because the announcement that such a proposal had been made by the United States would cause a storm that would drive every other subject out of the mind of the House and of the country. He is the best friend that we have in the Government and his surprise and dismay are overwhelming.

Sir Edward is too courteous to expose [*express*] himself but the Government and British opinion will regard this change by us of an accepted practice made while the war is in progress as a complete German victory over us in the submarine controversy. Engendered bitterness against us will be intense in the Allied countries and such influence as we might have had with the Allied Governments will be lost. If this proposal be persisted in the Administration will forfeit the confidence [and] good will of England and France. Can we gain enormously [*enough*] by it to offset this loss? Please reread my confidential telegram of the 22d instant.

It has been rumored here in well-informed circles for several weeks and I believe it is true that the British Government have been constructing extra munition works in England and Canada which can on short notice be manned and used to make as many munitions as the United States now supplies. The reason given for this expensive preparation is the fear of Bernstorff's success in his efforts to cause the Administration to embarrass the Allies. If necessary [*I hear that*] orders placed in the United States could now be stopped within a month without diminishing the total supply. If no merchantman may carry a defensive gun into an American port [this] change may precipitate a cutting off of American orders not from any wish to cut them off but from fear that other embarrassing acts by us may follow.

162

*Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff)*⁴³

[WASHINGTON,] January 25, 1916.

I said to the Ambassador that I had considered very carefully the two memoranda which he had sent me Saturday night, and that I regretted to say that neither of them was at all satisfactory; that I could not see any material change from the memorandum which he had previously submitted on the subject. He replied that he thought they differed in the fact that they left out the portion which related to a warning of American citizens. I told him I considered that non-essential; that the essential omission was the frank admission on the part of Germany that the sinking of the *Lusitania*, being an act of reprisal, was an illegal act; and that while it might be justified in regard to enemies, it could not be justified in regard to neutrals; that their rights were violated and that the violation of rights imposed upon the German Government the liability of which the outward manifestation was the payment of a reasonable indemnity.

The Ambassador said that they had offered to pay the indemnity and he thought it might be concluded from that that they recognized that a right had been invaded, and that, therefore, there was liability.

I told him I did not read the memoranda in that way; that the language indicated that the payment of an indemnity would be an act of grace on the part of Germany, growing out of her desire to preserve the friendship of the United States; that when Italians were massacred by a mob in New Orleans the United States had paid a considerable indemnity but had denied obligation to do so and, therefore, had denied liability for the wrong.

The Ambassador asked me what I desired him to do. I said that in view of the circumstances I could see no good reason for continuing our informal conversations on the subject, unless his Government frankly admitted the illegality of the submarine commander's conduct and also admitted liability for the American lives lost. He replied that he was convinced his Government would not be willing to consent to such admissions in view of the fact that it would be turning black into white, as they had always denied the wrong and the liability. I answered him that he evidently, then, had reached the same conclusion—that further informal negotiations would be useless.

⁴³ File No. 841.857 L 97/130½.

The Ambassador seemed greatly perturbed and sat for several moments considering the situation. He finally said:—"And what would be your course in case my Government will not accede to these terms, which seem harsh?"

I replied:—"I see no other course, Mr. Ambassador, except to break off diplomatic relations."

The Ambassador said:—"I do not see how the matter could stop with the breaking off of diplomatic relations. It would go further than that."

I replied:—"Doubtless you are correct in this view. I have given the matter most earnest consideration and have discussed it with the President, and I can assure you we do not hesitate to assume responsibility for what may occur in case your Government refuses to accede to our just demands. You know that we have striven to arrange this controversy amicably and for that reason I submitted to you a formula which I thought would, to an extent at least, harmonize the attitude of your Government with mine. I feel that we have gone as far as we can in accordance with the dignity and honor of the United States."

The Ambassador took the copies of the memorandum which he had been holding in his hand and started to make certain changes in them. I said to him that I thought it would be as well if he would take them to the Embassy and prepare a memorandum meeting our views, with the understanding that it might be possible to induce his Government to adopt it, and that I would see him tomorrow morning at 11:45. He replied that he would do so, but that he doubted very much if his Government could be induced to admit the wrong conduct of the submarine commander; or that it was liable for the death of the Americans on board the *Lusitania*.

ROBERT LANSING

163

*Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff)*⁴⁴

[WASHINGTON,] January 26, 1916.

The German Ambassador called at 11:45 this morning and handed me a memorandum which he proposed to communicate to his Government for their approval. In the memorandum was the admission of liability of the German Government for the lives of American citizens lost on the *Lusitania* but no admission of the illegality of the act of the submarine commander in sinking the vessel.

⁴⁴ File No. 841.857 L 97/131½.

After reading the memorandum I told the Ambassador that I did not think it would be satisfactory but that I would submit it to the President if he so desired. He asked me in what particulars I would have it changed. I told him in the particular as to the admission of illegality so far as neutrals were concerned. He then made several changes in the memorandum and after we went over them together he dictated them to Mr. Sweet. The result was the annexed memorandum which the Ambassador will send today to Berlin for the approval of his Government.

Over the telephone I read the proposed memorandum to the President who said that he thought if Bernstorff could obtain that our demands would have been fully met.

I then telephoned the German Ambassador that the President considered the memorandum satisfactory and that I hoped he could secure it.

ROBERT LANSING

[Annex]

The German Ambassador (Bernstorff) to the German Foreign Office

The German submarine war against England's commerce at sea, as announced on February 4, 1915, is conducted in retaliation of England's inhuman war against Germany's commercial and industrial life. It is generally recognized as justifiable that retaliation may be employed against acts committed in contravention of the law of nations. Germany is enacting such retaliation because it is England's endeavor to cut off all imports from Germany by preventing even legal commerce of neutrals with her and thereby subjecting the German population to starvation. In answer to these acts Germany is making efforts to destroy England's commerce at sea, at least as far as it is carried on by enemy vessels. If Germany has notwithstanding limited her submarine warfare this was done in view of her longstanding friendship with the United States and in view of the fact that the sinking of the *Lusitania* caused the death of citizens of the United States. Thereby the German retaliation affected neutrals, which was not the intention as retaliation becomes an illegal act if applied to other than enemy subjects.

The Imperial Government, having, subsequent to the event, issued to its naval officers the new instructions which are now prevailing, expresses profound regret that citizens of the United States suffered by the sinking of the *Lusitania* and, recognizing the illegality of causing their death, and admitting liability therefor, offers to make reparation for the lives of the citizens of the United States who were lost by the payment of a suitable indemnity.

In the note of the American Government, July 21, concerning the *Lusitania* incident, the Government of the United States invited the practical cooperation of the Imperial German Government in contending for the principle of the freedom of the seas, and added that this great object could, in some way be accomplished before the present war ends. The Imperial Government will at all times gladly cooperate with the Government of the United States for the purpose of accomplishing this common great object.

164

*The Secretary of State to the President*⁴⁵

January 27, 1916.

MY DEAR MR. PRESIDENT: The British Ambassador called upon me this morning and handed me the enclosed paper which is the substance of a telegram received by him from Sir Edward Grey in regard to our proposition as to a *modus vivendi* in connection with submarine warfare.^{45a} I also enclose a telegram upon the same subject, deciphered late yesterday, received from Ambassador Page at London.⁴⁶

It seems to me that the British Government expected us to denounce submarine warfare as inhuman and to deny the right to use submarines in attacking commercial vessels; and that these statements by Sir Edward Grey evidence his great disappointment that we have failed to be the instrument to save British commerce from attack by Germany.

I must say that I am very considerably disturbed as to Mr. Page's attitude on all subjects which in any way affect the policies of Great Britain. He certainly is influenced very strongly by the atmosphere in which he is and I frequently doubt whether he urges the cases involving American rights with the force and vigor which he should as American Ambassador.

In regard to the submarine matter I think there is nothing to be done until we have heard from the Allies of Great Britain but I presume in view of these telegrams that they will be opposed to any arrangement. I do not think it is necessary for us to act immediately upon such refusal but we should consider what course we are going to take in regard to Americans traveling on vessels carrying arms, which can be used offensively against submarines. I doubt

⁴⁵ File No. 763.72/2372½a.^{45a} Not printed.⁴⁶ Document 161.

whether we can insist that vessels so armed can be considered other than as auxiliary cruisers of the respective navies of the Allies.

I would be very much gratified if you could give me your views on this subject.

Faithfully yours,

[ROBERT LANSING]

165

*The Ambassador in Germany (Gerard) to the Secretary of State*⁴⁷

[Telegram]

BERLIN, January 29, 1916—9 p.m.

[Received January 31—8.15 a.m.]

4007. Colonel House has just received from Zimmermann following letter dated 29th instant:

"MY DEAR COLONEL: With reference to the conversation I had with you this noon about the *Lusitania* matter, I am sorry to say that the latest proposal which has just been transmitted to us by Count Bernstorff is not acceptable for the Imperial Government. While we are perfectly willing to settle the incident in a way which seems acceptable to the United States Government, the latest proposal contains the following two sentences, to the underlined passages of which we could not possibly agree: "thereby the German retaliation affected neutrals which was not the intention, as retaliation becomes an illegal act if applied to other than enemy subjects," and "The Imperial Government, having subsequent to the event issued to its naval officers the new instructions which are now prevailing, expressing profound regret that citizens of the United States suffered by the sinking of the *Lusitania*, and recognizing the illegality of causing thereby danger, and admitting liabilities, therefore offers to make reparation for the life of the citizens of the United States who were lost by the payment of a suitable indemnity."

I am afraid that if the United States Government insists on this wording, a break will be unavoidable, which, I am sure, you would regret just as much as I would for the reasons we both recognized as most important for the future policy and the welfare of the white races.

After all the trouble which has been taken on both sides to smooth matters over I am not yet willing to believe that things are quite as bad as they seem, and I think there ought to be a way out of it. But the proposed wording which practically amounts to declaring submarine warfare illegal could never be approved by the German Government and would besides not be tolerated by public opinion in Germany which cannot be brushed aside entirely.

I should be much obliged to you, my dear Colonel, if you could see your way to bring the above to the knowledge of the President in the way you so kindly suggested.

⁴⁷ File No. 763.72/2365; For. Rel., 1916, supp., p. 154.

Thanking you in advance for your kind offices and wishing you and Mrs. House *bon voyage* and a safe return, I am [etc.]

ZIMMERMANN."

Colonel House leaving for Paris tonight and will cable from there. In the meantime Colonel House suggests no action.

GERARD

166

*The Secretary of State to the President*⁴⁸

February 4, 1916.

MY DEAR MR. PRESIDENT: The German Ambassador has just called upon me and left the enclosed memorandum which he gave me to understand was as far as his Government possibly could go in complying with our requests.

I have only analyzed the memorandum very hastily. In the *first* place I think it may be drawn from it that the German Government recognizes that retaliatory acts are not lawful, though justifiable; in the *second* place, it declares that "retaliation must not aim at other than enemy subjects", which means, I think, that it is unlawful so far as neutrals are concerned; and in the *third* place, the German Government assumes liability for the death of citizens of the United States as a result of the sinking of the *Lusitania*. It comes so near meeting all our demands that I wish to study it with care to see if it cannot be considered acceptable.

Of course the word *illegal* and the word *illegality* are omitted, but if we do accept this settlement I believe we could state our understanding of the language in order to show in our acceptance that we consider there is a direct admission of wrong.

Faithfully yours,

ROBERT LANSING

[Enclosure]

The German Embassy to the Department of State

The German submarine war against England's commerce at sea, as announced on February 4, 1915, is conducted in retaliation of England's inhuman war against Germany's commercial and industrial life. It is generally recognized as justifiable that retaliation may be employed against acts committed in contravention of the law of nations. Germany is enacting such retaliation, because it is England's endeavor to cut off all imports from Germany by preventing even legal commerce of the neutrals with her and thereby subjecting the German population to starvation. In answer to these acts Ger-

⁴⁸ File No. 763.72/2611.

many is making efforts to destroy England's commerce at sea, at least as far as it is carried on by enemy vessels. If Germany has notwithstanding limited her submarine warfare, this was done in view of her long-standing friendship with the United States and in view of the fact that the sinking of the *Lusitania* caused the death of citizens of the United States. Thereby the German retaliation affected neutrals which was not the intention, as retaliation must not aim at other than enemy subjects.

The Imperial German Government having subsequent to the event issued to its naval officers the new instructions which are now prevailing, expresses profound regret that citizens of the United States suffered by the sinking of the *Lusitania*, and assuming liability therefor, offers to make reparation for the life of the citizens of the United States who were lost by the payment of a suitable indemnity.

In the note of the American Government of July 21 concerning the *Lusitania* incident the Government of the United States invited the practical cooperation of the Imperial Government in contending for the principle of the freedom of the seas, and added that this great object could in some way be accomplished before the present war ends. The Imperial Government will at all times gladly cooperate with the Government of the United States for the purpose of accomplishing this common great object.

167

*The Secretary of State to the President*⁴⁹

February 8, 1916.

MY DEAR MR. PRESIDENT: The German Ambassador called upon me at half-past four this afternoon and I talked with him about the suggested changes in his memorandum. He said he would like very much to make the changes himself without consulting his Government, but that he had been so attacked by his enemies at home that he did not dare to do so. He agreed to at once advise Berlin of the changes sought and was satisfied that they would accede to them. He seemed to think there was no doubt about it. I am not at all sure that I share his optimism as I fear they may seek to modify their statements in some way.

It will, therefore, be a few days before anything further can be done, as I assume the Ambassador will not be able to send a telegram until tomorrow morning.

Faithfully yours,

ROBERT LANSING

⁴⁹ File No. 763.72/2611.

168

*The Secretary of State to Diplomatic Officers in European Countries*⁵⁰

[Circular telegram]

WASHINGTON, February 16, 1916.

I said to the press men yesterday that the Government admitted that merchant vessels have legal right to arm for the sole purpose of defense; that as the Government is impressed with the reasonableness of the argument that a merchant vessel is presumptively armed for offensive purposes if it carries in these days an armament which makes it superior offensively to the submarine, which is now a recognized naval weapon, it feels that the present rule of international law permitting belligerent merchant vessels to arm ought to be changed; that nevertheless the Government does not feel that during the war it can change or disregard the established rule without the assent of the contending belligerents; that the proposal to the Entente Powers of a *modus vivendi* for the protection of unarmed merchant vessels against attack without warning by submarines was made in the interest of obtaining for humanity's sake the assent of the warring powers to the removal of armament of any sort from merchant ships during the present war; that this proposal which was made only to the Entente Powers was made informally and until accepted by them there is no intention to submit it to the Teutonic Powers; that it is hoped that the Entente Powers will find it possible in order to lessen the danger to life to accept the arrangement; that if the Entente Powers reject it, the Government will, of course, feel compelled to cease its efforts to have the *modus vivendi* accepted and will rely upon the present established rule of international law that merchant ships are entitled to armament for defensive purposes only; and that nevertheless the Government feels free to change its regulations in regard to the evidence as to armament on merchant vessels arriving in American ports which would indicate that it was defensive only.

I added that there was no present intention to warn Americans to refrain from traveling on belligerent merchantmen armed with guns solely for the purpose of defense; that, if Americans should lose their lives in attack by submarines without warning upon merchantmen so armed, it will be necessary to regard the offense as a breach of international law and the formal assurances given by the German Government, but each case will require investigation as to the facts before action is determined; and that, while no protests have as yet gone forward to the Teutonic Powers in regard to their recent decla-

⁵⁰ File No. 763.72/2412b; For. Rel., 1916, supp., p. 170.

ration⁵¹ regarding submarine warfare, the Government may make inquiries of those powers to ascertain how they purpose to distinguish between armed and unarmed merchant vessels.

LANSING

169

*The German Ambassador (Bernstorff) to the Secretary of State*⁵²

J. No. A 1138

WASHINGTON, D. C., February 16th, 1916.

MY DEAR MR. SECRETARY: With reference to my letters of September 1st^{52a} and October 5th, 1915,^{52b} concerning the *Lusitania* and *Arabic* cases, I beg to transmit to you the following instructions which I have received from my Government in answer to your official note of July 21st, 1915.^{52c}

"The German submarine war against England's commerce at sea, as announced on February 4th, 1915, is conducted in retaliation of England's inhuman war against Germany's commercial and industrial life. It is generally recognized as justifiable that retaliation may be employed against acts committed in contravention of the law of nations. Germany is enacting such retaliation, because it is England's endeavor to cut off all imports from Germany by preventing even legal commerce of the neutrals with her and thereby subjecting the German population to starvation. In answer to these acts Germany is making efforts to destroy England's commerce at sea, at least as far as it is carried on by enemy vessels. Germany has notwithstanding limited her submarine warfare, because of her long-standing friendship with the United States and because by the sinking of the *Lusitania*, which caused the death of citizens of the United States, the German retaliation affected neutrals which was not the intention, as retaliation should be confined to enemy subjects.

The Imperial German Government having subsequent to the sinking of the *Lusitania* issued to its naval officers the new instructions which are now prevailing, expresses profound regret that citizens of the United States suffered by that event and recognizing its liability therefor stands ready to make reparation for the life of the citizens of the United States who were lost by the payment of a suitable indemnity.

In the note of the American Government of July 21st, 1915, concerning the *Lusitania* incident, the Government of the United States invited the practical cooperation of the Imperial Government in contending for the principle of the freedom of the seas and added

⁵¹ In a German memorandum of Feb. 8, 1916, received by the Secretary of State on Feb. 11, the following announcement had been made: "... enemy merchantmen armed with guns no longer have any right to be considered as peaceable vessels of commerce. Therefore the German naval forces will receive orders, within a short period, paying consideration to the interests of neutrals, to treat such vessels as belligerents." (File No. 763.72/2397; For. Rel., 1916, supp., p. 165.)

⁵² File No. 763.72/2392½.

^{52a} Document 119.

^{52b} See document 129.

^{52c} Document 107.

that this great object could in some way be accomplished before the present war ends. The Imperial Government will at all times gladly cooperate with the Government of the United States for the purpose of accomplishing this common great object."

I remain [etc.]

J. BERNSTORFF

170

The Secretary of State to the President ⁵³

February 16, 1916.

MY DEAR MR. PRESIDENT: The German Ambassador called on me this noon and left a letter embodying his Government's reply ^{53a} to our official note of July 21st, 1915, a copy of which I herewith enclose.

I told the Ambassador that I would take the matter under consideration, and would give him no opinion on the subject at the present time.

You will perceive that substantially all our suggestions have been accepted, except the change of the last phrase in paragraph 2 which reads—"as retaliation should be confined to enemy subjects". Our suggestion, you will recall, was—"as retaliation must not prevent the exercise of rights of other than enemy subjects." I am not at all sure whether the difference of phraseology is a substantial one.

In view of the recent manifesto from Berlin in regard to armed merchant vessels ⁵⁴ I do not see how we can now accept this answer as a settlement of the *Lusitania* case. The German Government was fully advised as to our attitude in regard to the legal right to arm merchant vessels. It was, at the time it gave its three several assurances, with full knowledge of the British Admiralty orders to their merchant vessels, yet they gave those assurances without qualification and they became an essential basis for a settlement of the difficulty. The recent declaration, in which it is stated that armed merchant vessels will be treated as auxiliary cruisers is, therefore, contradictory of their former position and would appear to nullify the assurances which they have given.

I believe it would be well for me to see the German Ambassador again, or else write him a note saying that in view of the recent change of policy by his Government the part of the settlement relating to the future conduct of submarine warfare has been materially changed and will require further consideration by this Government before it can accept as satisfactory the enclosed reply.

Faithfully yours,

ROBERT LANSING

⁵³ File No. 763.72/2392½.

^{53a} *Supra.*

⁵⁴ See footnote 51, p. 458.

171

*The President to the Secretary of State*⁵⁵

16 February, 1916.

MY DEAR MR SECRETARY: I have no hesitation in saying that, but for the recent announcement of the Central Powers as to the treatment to which they purpose subjecting armed merchantmen and those which they presumed to be armed, it would clearly be our duty in the circumstances to accept the accompanying note^{55a} as satisfactory. But that announcement inevitably throws doubt upon the whole future, and makes it necessary that we should think the situation out afresh.

I would suggest that you have a frank conversation with the German Ambassador and point out to him just our difficulty,—the difficulty of interpreting their recent assurances in the light of their new and dangerous policy, and of understanding that new policy in view of the fact that all the circumstances upon which they base their adoption of it were known to them at the time of the *Arabic* note.

I doubt whether it would be wise to address a note to him. I think that it would be best, all things considered, to make the interchange of explanations oral only, for the present.

Faithfully Yours,

W. W.

172

*Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff), February 17, 1916*⁵⁵

At my request the German Ambassador called upon me today and I told him that his letter of February 16th, relative to the *Lusitania* case I believed would be acceptable to this Government were it not for the fact that Germany had issued a new declaration of policy in regard to submarine warfare. I pointed out to him that there had been in the *Lusitania* controversy two questions—one as to the future conduct of submarine warfare and the other as to proper amends for past conduct; that I had assumed the assurances which had been given by Germany in regard to the future conduct of her submarine commanders settled that branch of the controversy; that in our informal conversations we had only discussed what amends Germany should make for the sinking of the *Lusitania*; and that

⁵⁵ File No. 763.72/23931½.

^{55a} Document 169.

⁵⁶ File No. 763.72/23941½; For. Rel., 1916, p. 172.

now, when the branch of the controversy which related to past conduct was substantially settled this declaration of new policy appeared to open up again the part of the controversy which related to the future.

The Ambassador replied that he did not see how this directly affected the assurances which had been given as the assurances related to liners. I told him that the declaration of principle as to submarine warfare in the Mediterranean was not limited in any way, nor was anything said about vessels being armed or unarmed; that that declaration was very comprehensive and would certainly be modified very materially if the present policy was put into effect.

The Ambassador asked me if I thought it would be advisable for Germany to postpone the time for a month at least before putting the new policy into operation. I told him that might temporarily relieve apprehension and make easier our future negotiations which he must realize would have to continue, in view of this new departure on the part of his Government.

He asked me if he could say to his Government that otherwise than as to the future of submarine warfare his letter of the 16th was satisfactory. I said no he could not say it was satisfactory, but that he might say in the circumstances that it was acceptable,^{56a} although I should regret his putting it into formal shape before this other matter was decided.

He said he would communicate the substance of this conversation to his Government and hoped to obtain from them an interpretation or expression which would satisfy our fears as to the new policy.

ROBERT LANSING

173

*The Secretary of State to the Ambassador in Germany (Gerard)*⁵⁷

[Telegram]

WASHINGTON, February 25, 1916—5 p. m.

2740. The President made public last night the following letter to Senator Stone, Chairman of the Committee on Foreign Relations:

"The White House, Washington, February 24, 1916.

My Dear Senator: I very warmly appreciate your kind and frank letter of today, and feel that it calls for an equally frank reply.

^{56a} On this same date, Feb. 17, the Secretary of State cabled the Ambassador in Germany as follows: "Germany's recent proclamation setting forth future conduct towards enemy merchant ships comes at a moment when we were about to conclude a satisfactory settlement covering her past conduct. The decree has entirely upset the negotiations with the result that the *Lusitania* case remains unsettled." (File No. 763.72/2412a; For. Rel., 1916, supp., p. 173.)

⁵⁷ File No. 763.72/2431a; For. Rel., 1916, supp., p. 177.

You are right in assuming that I shall do everything in my power to keep the United States out of war. I think the country will feel no uneasiness about my course in that respect. Through many anxious months I have striven for that object, amidst difficulties more manifold than can have been apparent upon the surface, and so far I have succeeded. I do not doubt that I shall continue to succeed. The course which the Central European Powers have announced their intention of following in the future with regard to undersea warfare seems for the moment to threaten insuperable obstacles, but its apparent meaning is so manifestly inconsistent with explicit assurances recently given up [*us*] by those powers with regard to their treatment of merchant vessels on the high seas that I must believe that explanations will presently ensue which will put a different aspect upon it. We have had no reason to question their good faith or their fidelity to their promises in the past and I for one feel confident that we shall have none in the future.

But in any event our duty is clear. No nation, no group of nations, has the right while war is in progress to alter or disregard the principles which all nations have agreed upon in mitigation of the horrors and sufferings of war; and if the clear rights of American citizens should ever unhappily be abridged or denied by any such action, we should, it seems to me, have in honor no choice as to what our own course should be.

For my own part, I cannot consent to any abridgement of the rights of American citizens in any respect. The honor and self-respect of the nation is involved. We covet peace, and shall preserve it at any cost but the loss of honor. To forbid our people to exercise their rights for fear we might be called upon to vindicate them would be a deep humiliation indeed. It would be an implicit, all but an explicit, acquiescence in the violation of the rights of mankind everywhere, and of whatever nation or allegiance. It would be a deliberate abdication of our hitherto proud position as spokesmen, even amidst the turmoils of war, for the law and the right. It would make everything this Government has attempted, and everything that it has achieved during this terrible struggle of nations meaningless and futile.

It is important to reflect that if in this instance we allowed expediency to take the place of principle, the door would inevitably be opened to still further concessions. Once accept a single abatement of right, and many other humiliations would certainly follow, and the whole fine fabric of international law might crumble under our hands piece by piece. What we are contending for in this matter is of the very essence of the things that have made America a sovereign nation. She cannot yield then without conceding her own impotency as a nation, and making virtual surrender of her independent position among the nations of the world.

I am speaking, my dear Senator, in deep solemnity without heat, with a clear consciousness of the high responsibilities of my office, and as your sincere and devoted friend. If we should unhappily differ, we shall differ as friends; but where issues so momentous as these are involved we must, just because we are friends, speak our minds without reservation. Faithfully yours, Woodrow Wilson."

Above for your own information. Repeat to Vienna and Constantinople with similar instruction.

LANSING

174

*The Secretary of State to Representative Henry D. Flood*⁵⁸

March 3, 1916.

DEAR MR. FLOOD: In compliance with your request, I am enclosing a memorandum giving some arguments against the approval of House Resolution 147. I expect during the day to send you further memoranda on this subject.

I should call to your special attention that these memoranda are sent so that you may use the substance of the information contained in them, but without quoting the memoranda in any way as being the statements of the State Department, or otherwise referring to them as views of the Department.

If the Department can be of further service to you, please do not hesitate to let me know.

Very sincerely yours,

ROBERT LANSING

[Enclosure—Extract]

Memorandum Regarding House Resolution 147

Par. (10)—This paragraph requests the President to warn Americans from traveling on naval or merchant ships whether the latter carry offensive or defensive guns, and to warn American citizens that they travel at their own risk on such ships.

The objections to this course are: (1) that it is a useless procedure to warn Americans not to travel on armed ships because the present discussion of the question must have brought the matter home to their minds more forcibly than could be done by any Congressional resolution; (2) that American citizens can not be warned from traveling on armed ships except upon the ground that it is merely hazardous for them to do so without regard of the question of the rights involved (and sufficient warning for this purpose has already been given) or on the ground that they have no right to travel on such vessels. If they have a right to travel on such vessels, then to warn them that they travel at their own risk is to take away from them a right which belongs to them instead of defending a right which they are entitled to enjoy; (3) that to give up a right of travel

⁵⁸ File No. 763.72/2550½a.

as a matter of expediency is in a sense to approve the circumstances which force such an expedient act, namely, because submarines will sink merchant vessels without placing persons on board in safety. The consequence would be to take up a position in favor of this kind of inhuman warfare which the United States has denounced from the beginning and to assume a position against carrying out the well-known and fully established simple, practicable rules of naval warfare, which are based on the immutable principles of humanity, that human life is to be protected at sea when not engaged in resistance to belligerent right to warn and visit and search;

(4) the President, being the spokesman of the United States in its relations with foreign powers is carrying on negotiations with the belligerents and has been carrying on such negotiations with a view to protecting and maintaining the rights of American citizens. This is, up to the point of declaration of war, under the American system of government almost exclusively an executive function. For the Congress now to interpose itself in these negotiations is disconcerting to say the least to the efforts of the executive, is confusing to foreign Governments and is invading the prerogatives of the President. In a word, there is no just ground for Congressional interference in the effort to change the Government's position or to weaken its position in the midst of pending diplomatic negotiations;

(5) Congressional action, in any event, cannot serve to change an international rule or an international right. To say that American citizens shall travel on armed ships at their own risk may absolve the Government from responsibility to protect their lives and property from unjust attack upon the high seas, but it would leave the United States in the illogical position of warning Americans off of armed ships as a matter of expediency but of allowing the same armed ships to enter American ports and to be the recipients of American hospitality as peaceful and harmless merchant traders.

(6) finally, to begin now in the midst of a war to give up a right as a matter of expediency is to open the door for similar concessions to either one of the other groups of opposing belligerents. A concession to one side might immediately be called to the attention of the Government by the other side with the request for some sort of concession to that side in order to balance matters. The Government would thus be placed in a most embarrassing position, for it would be subject to the charge of having favored one of the belligerents and refusing to favor the other belligerent—a charge which amounts to saying that the United States has broken its obligation as a neutral in the present war.

175

*The Secretary of State to the Ambassador in Germany (Gerard)*⁵⁹

[Telegram]

WASHINGTON, *March 9, 1916.*

2790. Your 3528 February 25 and Departments March 1.

Please call at the Foreign Office and read the following message to the Foreign Minister without leaving him copy:

The German Government on January 7, 1916, shortly after the sinking of the British Steamship *Persia*, made public announcement of the orders which had been issued to its submarine commanders particularly those operating in the Mediterranean. In terms this announcement may perhaps have been acceptable but about the same time it came to my knowledge from confidential sources that the German Government had under consideration a policy of limiting its orders to merchant ships which carried no armament. As the orders announced on January 7th made no distinction between armed and unarmed ships, such a policy would materially affect the assurance of the 7th as well as the assurances previously given, which did not except armed vessels.

At that time the informal negotiations regarding the *Lusitania* were proceeding on the basis that the future conduct of submarine warfare had been satisfactorily settled by the several assurances given by Germany, the subject of discussion being the past conduct of the German naval authorities. It was evident that if the German Government should adopt the policy of eliminating from the benefit of its assurances all merchant vessels carrying guns, the question of the future conduct of Germany would be reopened.

In order to avoid this situation and also having particularly in mind the humane purpose of preventing as far as possible the loss of life among noncombatants on merchant ships, an identical letter, informal in nature, was on January 18, 1916, addressed to the diplomatic representatives of the Entente Powers at Washington proposing to them that their Governments should disarm all their merchant vessels in consideration of an agreement by Germany to comply strictly with the rules governing the taking and destruction of prizes of war on the high seas.

This letter was not sent to the representatives of Germany and Austria-Hungary at Washington for the reason that the Entente Powers were the only ones asked to modify the established rules of naval warfare. All that was required of the Teutonic Powers was observance of existing law, so that their refusal of the proposed *modus vivendi* was not to be expected.

On January 26th Baron Zwiedinek, the Austrian Chargé, called upon me and asked me about the letter to the Entente Powers of which he said he had heard. I told him that I could confidentially

⁵⁹ File No. 763.72/2429; For. Rel., 1916, supp., p. 202.

The same, *mutatis mutandis*, to the Ambassador in Austria-Hungary.

say to him that we had made proposals to the Entente Powers such as were reported, and that nothing had been said to the Central Powers because they were not asked to change the rules of war but were merely asked to live up to the rules which they were in any event bound to do. I told him further that the United States had two objects in view, one was to avoid a situation which would make most difficult our relations with the Central Powers and the other was the humane purpose of saving the lives of noncombatants.

Baron Zwiedinek then spoke to me of the views of the Central Powers that an armed merchant ship could not be treated as a peaceful trader and added that they were considering issuing an announcement to that effect. He asked me, if they did this, when I thought it would be well to do it.

As this proposed action confirmed the information which I had received I considered the matter from the point of view of its effect on the *Lusitania* negotiations and came to the conclusion that, if the announcement was made after the *Lusitania* case was settled, and while I was thus advised of the intention of the Central Powers, it could be claimed that this Government had to all intents acquiesced in limiting the application of the German assurances to unarmed vessels.

In view of this state of affairs it was desirable that the proposed declaration should be promulgated before the *Lusitania* negotiations reached their final stage, and so, in reply to Baron Zwiedinek's question as to when I thought it would be well to issue the declaration, I replied to him that I believed that the sooner it was issued the better.

The same evening (January 26th) the Telegraph Room at the Department of State read to me over the telephone the translation of Baron Zwiedinek's wireless message to his Government, in which he said that I would "welcome it" if a declaration such as he had proposed was issued. He used the German cipher.

Following the invariable practice of the Department in dealing with cipher messages by wireless I treated the message as a confidential communication to the Austro-Hungarian Government and allowed it to go forward, as there was nothing in the message which was obscure or which affected American neutrality—the sole subjects of the Department's censorship.

As soon, however, as I authorized the Telegraph Room to send the telegram to the Navy Department for transmission, I made a note in writing to call the attention of Baron Zwiedinek, "if opportunity offered", that is, if he brought the matter officially to my attention, to his erroneous statement that I would "welcome" the issuance of the declaration.

The reason for not correcting erroneous statements in censored wireless messages is manifest. If the Department adopted the practice of correcting all erroneous statements of facts or reports of conversations, the result would be that every message or sentence in a message which was passed without correction would be held to be endorsed by the Department as true. It would be unwise for the Department of State to assume such responsibility and become the sponsor for the accuracy of all statements passing under its censorship as it would be impossible to perform such a service and it would also be a constant source of irritation and dispute.

The opportunity to call the attention of Baron Zwiedinek to the misinformation he had conveyed to his Government came on February 9th, when he called for the first time after January 26th and brought to me a translation of a wireless message from the German Government, dated February 6th which I had not seen and which was stated to be in reply to the Chargé's message of January 26th.

In the message shown me appeared the following: "Germany and Austria-Hungary will publish within a few days declaration welcomed by Mr. Lansing" that all armed merchantmen will be treated as auxiliary cruisers.

After reading the message I pointed out to Baron Zwiedinek that the words "welcomed by Mr. Lansing" were unwarranted as I had not intended to convey any such meaning in our previous conversation.

He replied that I had had the opportunity to see the message which he sent to his Government on January 26th and could have corrected it.

I told him that that was so, but that in accordance with our policy I never had censored and would not censor in future the truth of statements in wireless messages, and I explained to him our practice.

I told him that my words were "the sooner that it is done the better" referring to the issuance of a declaration as to armed vessels.

He said that my words seemed to warrant his report of our conversation.

I said that that inference was entirely erroneous, that I had not intended to convey such a meaning, and I hoped that he would so advise his Government.

Late in the evening of February 9th the Telegraph Room telephoned me the translation of a message by Baron Zwiedinek to his Government, in which he said that I had called his attention to "a misunderstanding created by the use of the word 'welcome'"; and that I "did not wish to imply any initiative".

On the same sheet of paper as the foregoing message was one from the German Ambassador to his Government which was also read to me over the telephone. In this message appeared the following: "Mr. Lansing reminded me of fact that from the beginning of controversy with us the American Government always spoke of unarmed merchant vessels, (American note of May 13th, 1915)".

I could not understand how the Ambassador could make this statement as I had never said anything of the kind but had always contended exactly the contrary and had said to him at the time when he mentioned the use of "unarmed" in the note of May 13th, that it had been used in that connection because of the charge that the *Lusitania* was alleged to have had guns on board.

However, following our practice, I directed the Telegraph Room to permit the message to go forward, but made a note to call the misstatement to the Ambassador's attention if the opportunity offered. As the subject has not been brought to my attention officially I have had no opportunity to speak of it.

If I had corrected this misstatement it might have been argued that as I had corrected this message I must have approved, since I did not correct, the Zwiedinek message of January 26th, in which

it was stated I would "welcome" the declaration of the Central Powers.

Upon hearing rumors that it was being said that before the declaration of submarine policy had been issued by the Central Powers on February 10th, I had informed them that I would "welcome" such a declaration, I summoned Baron Zwiedinek to the Department on February 19th and informed him that this story had come to me and that in view of my denial of the use of the word or of any intention to convey such a meaning I was greatly surprised that it was in circulation.

The Chargé denied that he had given out the story but said that he was sure I had used the word "welcome". I answered him that in view of what I had said to him ten days before he must realize that I could only deny the truth of his statement, which I told him I should certainly do if the necessity arose.

He again referred to the fact that as a translation had passed through the Department without comment I was bound by the accuracy of the statement. I repeated at some length the explanation of the practice of the Department in regard to the censoring of wireless messages and told him that I had called the misstatement to his attention as soon as the matter came to me officially.

In order that the matter might be of record I wrote Baron Zwiedinek on the 22d fully detailing the practice of the Department as to the censorship of wireless cipher messages.

On the 24th Baron Zwiedinek replied acknowledging my letter of the 22d and advancing the assertion that before he left me on January 26th he requested me "to carefully look over" the message he was sending before allowing it to pass. He stated that he felt assured that as the message had passed the Department without comment it had been virtually endorsed as correct.

I answered him on February 25th that I had no recollection of his having made any such request, but that if he did—and I had to assume that he did because he so stated—I had not understood him and so had followed the usual practice when his message was submitted to me.

For your confidential information. The foregoing message is sent in order that you may be fully advised as to the facts in this matter and as it is expected that Central Powers will, in justification of the declaration of February 10th, advance the argument that it was suggested and sanctioned by this Government.

LANSING

176

*The Secretary of State to the President*⁶⁰

March 27, 1916.

MY DEAR MR. PRESIDENT: All the information which we are receiving in regard to the sinking of the *Sussex* in the English Chan-

⁶⁰ File No. 851.857 Su 8/54a.

nel, by which several Americans were injured and some undoubtedly killed, indicates that the vessel was torpedoed by a German submarine. If this information is corroborated as the investigation proceeds it will present a very serious situation in our relations with Germany. I think we should determine what course should be taken in the event that the evidence points very strongly to the culpability of the Germans.

Every effort undoubtedly will be made by the Allies to prove that the vessel was torpedoed, and I believe that they will make a strong case, judging from the telegrams we have thus far received. On the other hand, I feel sure that the German Government will deny the charge and assert that a floating mine of English origin caused the disaster. There will be thus a flat contradiction of statements as to the facts.

I do not believe that the Government can remain inactive because of this contradictory evidence. There will be a strong demand that something should be done and, personally, I would be disposed to view such a demand as justifiable.

The argument which will meet with general favor will be that the sinking of the *Sussex* is similar to that of the sinking of other vessels in the last few days, and is a direct result of the greater activity of submarines, in accordance with the new German policy which went into effect March first; and that even if the evidence of torpedoing was absent the presumption raised by the announced policy of Germany and the submarine attacks of the past ten days makes it almost certain that the vessel was torpedoed.

Assuming that Germany will fail to establish conclusively the innocence of her submarine commanders I do not see how we can avoid taking some decisive step. We can no longer temporize in the matter of submarine warfare when Americans are being killed, wounded, or endangered by the illegal and inhuman conduct of the Germans.

Of one thing I am firmly convinced and that is that the time for writing notes discussing the subject has passed. Whatever we determine to do must be in the line of action and it must indicate in no uncertain terms that the present method of submarine warfare can no longer be tolerated.

Proceeding on the assumption that the *Sussex* was torpedoed the action which seems to me the most practicable would be to demand the immediate recall of Count Bernstorff and the severance of diplomatic relations with Germany. This action might be made conditional upon the German Government unequivocally admitting the illegality of submarine warfare in general, paying a just indemnity for the Americans killed and injured, and guaranteeing that the

present method of warfare will cease. Such a conditional admission would be in the nature of an ultimatum which could very properly include a time limit at the expiration of which, in case of failure to comply with the conditions, Count von Bernstorff could be given his passports.

I realize that this action is drastic but I believe that to be patient longer would be misconstrued both at home and abroad. We have already shown in the case of the *Lusitania* an earnest desire to avoid trouble with Germany and now, after ten months of negotiations and on the eve of an amicable settlement, Germany has renewed the method of warfare against which we so strongly protested. In these circumstances I do not see how we can avoid the issue and remain inactive. The honor of the United States and the duty of the Government to its citizens require firm and decisive action.

While I have advanced these views on an assumption as to the sinking of the *Sussex* I think that the assumption will be justified. Doubtless the German Government would view the breaking off of diplomatic relations as an unfriendly act and might possibly go so far as to declare war against the United States, yet, with the probable consequences fully in mind, I can see no other course open to us. The case arises at a most unfortunate time in view of the state of our Mexican affairs and also in view of the proposed treaty which is receiving the consideration of the Danish Government. If we could, consistently with the dignity of the United States and our duty as a Government, delay action I would favor delay, but, in view of all the facts, if the assumption of German responsibility is established, I do not believe a long delay is possible.

Faithfully yours,

ROBERT LANSING

177

*The President to the Secretary of State*⁶¹

30 March, 1916.

MY DEAR MR. SECRETARY: I have your letter of the twenty-seventh in which you state your preliminary impressions about the *Sussex* Case. My impressions are not quite the same. The proof that the disaster was caused by a torpedo seems to me by no means satisfactory or conclusive. And, if it was caused by a torpedo, there are many particulars to be considered about the course we should pursue as well as the principle of it. The steps we take and the way we

⁶¹ File No. 851.857 Su 8/54½.

take them will, it seems to me, be of the essence of the matter if we are to keep clearly and indisputably within the lines we have already set ourselves.

But in this, as in other matters referred to in the papers I am now sending back to you, a personal conference is much the best means of reaching conclusions. We must have one very soon.

Faithfully Yours,

W. W.

178

*The Secretary of State to the Ambassador in Great Britain (Page)*⁶²

[Telegram]

WASHINGTON, April 8, 1916—6 p. m.

3163. This Government is surprised to be notified in your telegram No. 4088 of April 4 of a British Order in Council dated March 30 relating among other things to matters which were treated at some length by this Government in its note of October 21st last⁶³ to which after several requests for an answer no reply from the British Government has been received. The action of the British Government in thus treating with indifference the contentions of the United States by the issuance of an additional order in council making still more rigorous the practice under those to which the United States is objecting, can not be regarded here otherwise than as an act which appears to be intentionally discourteous. Please bring this to the attention of the British Government and formally request an early reply to our note of October 21st.⁶⁴ As to the merits of the Order in Council of March 30, while this Government has under consideration a detailed reply, you may state in a preliminary formal reply to the British Government, reserving all rights for further reply, that the evident intention of that Government to make the order in council retroactive must be regarded by this Government as entirely opposed to the fundamental principles of international justice for which Great Britain and the United States have stood in the past and that this Government, therefore, contests the validity of such an arbitrary method of endeavoring to clothe with the semblance of wrong, acts which theretofore have been committed on the justifiable reliance that they were regarded as legal and unobjectionable by the British Government.

LANSING

⁶² File No. 763.72112/2398; For. Rel., 1916, supp., p. 362.

⁶³ See document 131.

⁶⁴ The reply was received on Apr. 24, 1916 (File No. 763.72112/2461; For. Rel., 1916, supp., p. 368).

*The Secretary of State to the President*⁶⁵

April 12, 1916.

MY DEAR MR. PRESIDENT: I am very heartily in accord with the proposed redraft of an instruction to Ambassador Gerard, (though I have suggested certain alterations in the text which do not change the spirit or sense), except as to one thing and that is the closing part which defines our action.⁶⁶

It seems to me to say that we must sever relations unless Germany ceases her submarine practices weakens the communication very much. The impression I get is this, that we say we will wait and see if you sink another vessel with Americans on board. If you do we will recall our Ambassador. Why should we postpone to the happening of another outrage action which I feel will do much to prevent such outrage? It impresses me we are actually endangering the lives of our citizens by such a course.

I do not see that we gain anything strategically by postponing an action which I believe, and I think you agree with me, we will have to take in the end.

On the other hand, I think that vigorous and uncompromising action will be far more effective and may accomplish the purpose we desire. I am afraid that the ending as it reads will be construed as indefinite as to time and as giving an opening for discussion.

I have taken the liberty to put down the ending, which I would very much prefer. If they intend to submit at all they will have time to do so before his passports are handed to Gerard. If they do not intend to give up their practices, we are far better off than if we waited till they killed some more Americans.

Of course there is another way and that is to fix a time limit for a favorable answer, say, forty-eight hours; but to me that seems more offensive and more like an ultimatum than to break off diplomatic relations without delay or opportunity for parley.

I feel strongly in favor of the action I have proposed, as I think that it would have a profound effect on Germany, on this country and on other neutral nations.

Faithfully yours,

ROBERT LANSING

⁶⁵ File No. 851.857 Su 8/55½a.

⁶⁶ Draft instruction not printed.

180

*The Secretary of State to the President*⁶⁷

April 15, 1916.

MY DEAR MR. PRESIDENT: I have been going over the ending of the instruction to Gerard in the submarine matter⁶⁸ and I am more and more convinced that the formula which you propose in your redraft, beginning—"Unless the Imperial Government should now, etc.", raises some serious objections.

In the first place, the phrase—"return to a scrupulous observance of the principles clearly prescribed by the law of nations"—offers an opportunity to raise the question as to what are the clearly prescribed principles. As you know, these are not very well defined except as to visit and search. In addition to this, the whole question of the treatment of armed and unarmed merchantmen will be raised. There is a decided difference of opinion as to the conversion of a merchant vessel into a warship. I am afraid if we employ that language that we will be involved, unavoidably, in a discussion of that question, which I assume we both wish to avoid. Any phrase which raises a reasonable difference of opinion invites discussion, and the word "immediately" would be nullified.

If we are to follow, substantially, the language of the redraft, I would suggest its amendment as follows:

"Unless the Imperial Government immediately declares that it abandons its present method of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire."

I am always at your service to discuss this matter, when you desire to do so.

Faithfully yours,

ROBERT LANSING

181

*Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff)*⁶⁹

[WASHINGTON,] April 18, 1916.

B.—My Government wants me to talk over with you once more the submarine question, and the instruction which I have received I thought it would be better if I would give you confidentially a copy

⁶⁷ File No. 763.72/2580a.

⁶⁸ Draft instruction not printed.

⁶⁹ File No. 763.72/2649½.

of the telegram. I had the telegram Friday but I had to put it in order.

L.—No, I noticed that the note did not suggest arbitration.

B.—It suggested a commission of inquiry. Have you anything to tell me today?

L.—Well hardly today. I think I will be able to tomorrow. The facts in the case appear to us to be conclusive.

B.—The facts of the *Sussex* case? I have had no information except what they told me.

L.—Of course there is one very disquieting thing that runs through the note that was sent. There are five cases presented. In two of these cases they do not seem to know whether the steamer torpedoed was the one torpedoed or not. They do not seem to know what steamers they have torpedoed, which seems to me a serious situation because they seem to be torpedoing anything, regardless of whether an armed vessel or an unarmed vessel, or neutral.

B.—A neutral vessel, according to instructions, is not supposed to be attacked.

L.—We have received reports from various capitols of neutral countries, of vessels attacked.

B.—Without warning?

L.—Without any warning at all. Some they say were probably destroyed by hitting a mine, some they state were torpedoed. Of course we have not all the details.

B.—It was because of advocating this general attack that von Tirpitz was compelled to resign. The instructions are very plain that the naval authorities have given that neutral vessels must not be attacked.

L.—It seems very strange they cannot control their commanders. They torpedoed one neutral ship when it was not even going to an English port. That is a report from Madrid; and furthermore it appears that about half the people on board the *Sussex* were neutrals.

B.—Of course they constantly report from London that such and such a ship was torpedoed without warning.

L.—I am not referring to the London reports but to those of neutrals.

B.—I don't understand it.

L.—They seem to torpedo a vessel and find out her nationality afterward, which is a dangerous proceeding.

B.—It certainly is.

L.—That is what makes the situation serious. It is a menace to the safety of Americans when they torpedo a vessel without Americans on board, if Americans had a right to travel on them.

B.—(This concerned the real intention of his Government in regard to the submarine blockade as to routes of safety and neutral

vessels, and closes—"but everything else is regarded as blockaded and any ships that do not regard the blockade will be sunk.")

L.—I cannot understand the actions of the submarine commanders unless the Government has no control over them. Of course some of our reports are very full as to certain vessels, and the evidence comes in slowly on others. We made a special effort on the *Sussex* case because that was one of the most harrowing, so we made a special effort to collect our evidence as rapidly as we could and the evidence which we have is perfectly conclusive as to the facts. We shall make out a full statement of the facts as established by the evidence and it will be found, I think, that everything substantially in the note of April 10th from your Government corroborates the facts, except as to the sketch.

B.—And that you have sent?

L.—No we have not, but it will be sent.

B.—(Asks if there is anything he can do)

L.—I do not think there is at present. I think I will be able to communicate with you more definitely tomorrow.

B.—I would like to help because I have been worried. We could manage it better here. You know I have used every effort to preserve friendly relations.

L.—I appreciate your efforts.

B.—I do not want trouble and I am absolutely certain that my Government does not want trouble though I say this without instructions. They have to meet public opinion over there which is **very strong for submarine war.**

L.—I think I appreciate the position. I understand and appreciate the difficulties all Governments have in dealing with public opinion.

B.—Certainly my Government does not want trouble.

L.—We shall have to wait until tomorrow. I can then talk more freely.

B.—Will you be good enough to let me know?

L.—Yes, good bye.

[Annex]

The German Foreign Office to the German Embassy at Washington ^{69a}

J. No. A 2813/16

We are now conducting submarine war absolutely in accordance with general principles of International Law. Only exception is commerce war against enemy freight ships in English war-zone. This is only aimed at destruction of ships but we try to save human

^{69a} File No. 763.72/2650½.

lives as far as possible. This retaliatory step against English starvation policy does not touch interests of neutrals as neutral passengers on enemy freight ships manifestly try to render futile German war measure and as neutral members of crew are brought into relation of dependents on state whose flag ship flies; consequently both neutral passengers and crew on enemy freight ships lose neutral character. We, therefore, never gave any promises regarding enemy freight ships in war-zone.

Instructions to submarine commanders regarding their proceeding and observance of all our assurances are so precise that according to human foresight errors are excluded and certainly not more possible than in ordinary naval war; furthermore submarine commanders are instructed not to attack ships when in doubt. A ruthless submarine war would certainly have greatly increased loss in enemy ships; for this reason alone all doubts whether our instructions are meant seriously and strictly carried out *bona fide* are without foundation.

We have modified submarine war to maintain friendly relations with America sacrificing important military advantages and in contradiction to excited public opinion here.

We, therefore, trust that American Government will appreciate this and not put forward new demands which might bring us into an impossible situation.

In order to correct errors apparently existing in American press I state that we have not suggested arbitration *Sussex* case but commission of inquiry to establish facts which are different.

182

*The Secretary of State to the Ambassador in Germany (Gerard)*⁷⁰

[Telegram]

WASHINGTON, April 18, 1916—6 p. m.

2913. You are instructed to deliver to the Secretary of Foreign Affairs a communication reading as follows:

(1) I did not fail to transmit immediately, by telegraph, to my Government Your Excellency's note of the 10th instant in regard to certain attacks by German submarines, and particularly in regard to the disastrous explosion which on March 24th last wrecked the French steamship *Sussex* in the English Channel. I have now the honor to deliver, under instructions from my Government, the following reply to Your Excellency:

(2) Information now in the possession of the Government of the United States fully establishes the facts in the case of the *Sussex*, and the inferences which my Government has drawn from that

⁷⁰ File No. 763.72/2597a; For. Rel., 1916, supp., p. 232.

information it regards as confirmed by the circumstances set forth in Your Excellency's note of the 10th instant. On the 24th of March, 1916, at about 2.50 o'clock in the afternoon, the unarmed steamer *Sussex*, with 325 or more passengers on board, among whom were a number of American citizens, was torpedoed while crossing from Folkestone to Dieppe. The *Sussex* had never been armed; was a vessel known to be habitually used only for the conveyance of passengers across the English Channel; and was not following the route taken by troop ships or supply ships. About 80 of her passengers, non-combatants of all ages and sexes including citizens of the United States, were killed or injured.

(3) A careful, detailed, and scrupulously impartial investigation by naval and military officers of the United States has conclusively established the fact that the *Sussex* was torpedoed without warning or summons to surrender and that the torpedo by which she was struck was of German manufacture. In the view of the Government of the United States these facts from the first made the conclusion that the torpedo was fired by a German submarine unavoidable. It now considers that conclusion substantiated by the statements of Your Excellency's note. A full statement of the facts upon which the Government of the United States has based its conclusions is enclosed.⁷¹

(4) The Government of the United States, after having given careful consideration to the note of the Imperial Government of the 10th of April, regrets to state that the impression made upon it by the statements, and proposals contained in that note is that the Imperial Government has failed to appreciate the gravity of the situation which has resulted, not alone from the attack on the *Sussex*, but from the whole method and character of submarine warfare as disclosed by the unrestrained practice of the commanders of German undersea craft during the past twelvemonth and more in the indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations. If the sinking of the *Sussex* had been an isolated case, the Government of the United States might find it possible to hope that the officer who was responsible for that act had wilfully violated his orders or had been criminally negligent in taking none of the precautions they prescribed, and that the ends of justice might be satisfied by imposing upon him an adequate punishment, coupled with a formal disavowal of the act and payment of a suitable indemnity by the Imperial Government. But, though the attack upon the *Sussex* was manifestly indefensible and caused a loss of life so tragical as to make it stand forth as one of the most terrible examples of the inhumanity of submarine warfare as the commanders of German vessels are conducting it, it unhappily does not stand alone.

(5) On the contrary, the Government of the United States is forced by recent events to conclude that it is only one instance, even though one of the most extreme and most distressing instances, of the deliberate method and spirit of indiscriminate destruction of merchant vessels of all sorts, nationalities and destinations which have become more and more unmistakable as the activity of German

⁷¹ Not printed.

undersea vessels of war has in recent months been quickened and extended.

(6) The Imperial Government will recall that, when, in February, 1915,⁷² it announced its intention of treating the waters surrounding Great Britain and Ireland as embraced within the seat of war and of destroying all merchant ships owned by its enemies that might be found within that zone of danger, and warned all vessels, neutral as well as belligerent, to keep out of the waters thus proscribed or to enter them at their peril, the Government of the United States earnestly protested.⁷³ It took the position that such a policy could not be pursued without constant gross and palpable violations of the accepted law of nations, particularly if submarine craft were to be employed as its instruments, inasmuch as the rules prescribed by that law, rules founded on the principles of humanity and established for the protection of the lives of non-combatants at sea, could not in the nature of the case be observed by such vessels. It based its protest on the ground that persons of neutral nationality and vessels of neutral ownership would be exposed to extreme and intolerable risks; and that no right to close any part of the high seas could lawfully be asserted by the Imperial Government in the circumstances then existing. The law of nations in these matters, upon which the Government of the United States based that protest, is not of recent origin or founded upon merely arbitrary principles set up by convention. It is based, on the contrary, upon manifest principles of humanity and has long been established with the approval and by the express assent of all civilized nations.

(7) The Imperial Government notwithstanding persisted in carrying out the policy announced, expressing the hope that the dangers involved, at any rate to neutral vessels, would be reduced to a minimum by the instructions which it had issued to the commanders of its submarines, and assuring the Government of the United States that it would take every possible precaution both to respect the rights of neutrals and to safeguard the lives of non-combatants.

(8) In pursuance of this policy of submarine warfare against the commerce of its adversaries, thus announced and thus entered upon in despite of the solemn protest of the Government of the United States, the commanders of the Imperial Government's undersea vessels have carried on practices of such ruthless destruction which have made it more and more evident as the months have gone by that the Imperial Government has found it impracticable to put any such restraints upon them as it had hoped and promised to put. Again and again the Imperial Government has given its solemn assurances to the Government of the United States that at least passenger ships would not be thus dealt with, and yet it has repeatedly permitted its undersea commanders to disregard those assurances with entire impunity. As recently as February last it gave notice that it would regard all armed merchantmen owned by its enemies as part of the armed naval forces of its adversaries and deal with them as with men of war, thus, at least by implication, pledging

⁷² See document 48.

⁷³ See document 49.

itself to give warning to vessels which were not armed and to accord security of life to their passengers and crews; but even this limitation its submarine commanders have recklessly ignored.

(9) Vessels of neutral ownership, even vessels of neutral ownership bound from neutral port to neutral port, have been destroyed along with vessels of belligerent ownership in constantly increasing numbers. Sometimes the merchantmen attacked have been warned and summoned to surrender before being fired on or torpedoed; sometimes their passengers and crews have been vouchsafed the poor security of being allowed to take to the ship's boats before the ship was sent to the bottom. But again and again no warning has been given, no escape even to the ship's boats allowed to those on board. Great liners like the *Lusitania* and *Arabic* and mere passenger boats like the *Sussex* have been attacked without a moment's warning, often before they have even become aware that they were in the presence of an armed ship of the enemy, and the lives of non-combatants, passengers and crew, have been destroyed wholesale and in a manner which the Government of the United States cannot but regard as wanton and without the slightest color of justification. No limit of any kind has in fact been set to their indiscriminate pursuit and destruction of merchantmen of all kinds and nationalities within the waters which the Imperial Government has chosen to designate as lying within the seat of war. The roll of Americans who have lost their lives upon ships thus attacked and destroyed has grown month by month until the ominous toll has mounted into the hundreds.

(10) The Government of the United States has been very patient. At every stage of this distressing experience of tragedy after tragedy it has sought to be governed by the most thoughtful consideration of the extraordinary circumstances of an unprecedented war and to be guided by sentiments of very genuine friendship for the people and Government of Germany. It has accepted the successive explanations and assurances of the Imperial Government as, of course, given in entire sincerity and good faith, and has hoped, even against hope, that it would prove to be possible for the Imperial Government so to order and control the acts of its naval commanders as to square its policy with the recognized principles of humanity as embodied in the law of nations. It has made every allowance for unprecedented conditions and has been willing to wait until the facts became unmistakable and were susceptible of only one interpretation.

(11) It now owes it to a just regard for its own rights to say to the Imperial Government that that time has come. It has become painfully evident to it that the position which it took at the very outset is inevitable, namely, the use of submarines for the destruction of an enemy's commerce is, of necessity, because of the very character of the vessels employed and the very methods of attack which their employment of course involves, utterly incompatible with the principles of humanity, the long-established and incontrovertible rights of neutrals, and the sacred immunities of non-combatants.

(12) If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of

commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether. This action the Government of the United States contemplates with the greatest reluctance but feels constrained to take in behalf of humanity and the rights of neutral nations.

LANSING

183

*Memorandum by the Secretary of State of a Conversation with the German Ambassador (Bernstorff)*⁷⁴

[WASHINGTON,] April 20, 1916.

L.—Good morning.

B.—Good morning, Sir. You handed me a copy of the note yesterday, and in the present state of affairs of course my chief object is to find a way how this break can be avoided, because I hope it can be avoided. My idea is to find a way out of it, but of course I had to telegraph my Government that this Government seemed to offer little opportunity for settlement. If it means the entire stopping of the use of submarines, I am afraid that it cannot be arranged.

L.—You will recall that we said in the first *Lusitania* note that we thought it was impossible to use submarines in a really humane way and that later, in our note of July 21, we said that the way submarine warfare had been conducted for the past two months showed that it was possible and therefore we hoped that course would be pursued. Then we had the sinking of the *Arabic* right on top of that, which was another great disaster. Our position is that, if submarine warfare had been conducted in that way, that possibly there would have been no further question raised. But it has not. It has been conducted in the most indiscriminate way and we cannot help but believe that it is ruthless. In those conditions submarine warfare should stop against commercial vessels, unless visit and search is observed.

B.—That, of course, is impossible. Germany cannot abandon submarine warfare. No government could come out and say—"We give up the use of submarines." They would have to resign.

⁷⁴ File No. 763.72/2652½.

L.—What possible methods in the use of submarines, that are effective from a belligerent standpoint, can be suggested which will comply with the law?

B.—I had always supposed that warning was to be given.

L.—We do not consider that the people on board—the non-combatants on board the vessels—are in a place of safety when put into an open boat a hundred miles from land. It might be calm there, but in the two days it would take them to reach land there might be a severe storm. That is one of the grounds of complaint.

B.—That, of course, speaking of neutral vessels—

L.—The fact that we do not have Americans on these vessels does not remove the menace to American lives. The sinking of neutral vessels shows that Americans cannot travel with safety on neutral vessels even. That is the serious part of it and I do not know how your Government can modify submarine warfare and make it effective and at the same time obey the law and the dictates of humanity.

B.—Humanity. Of course war is never humane.

L.—“Humanity” is a relative expression when used with “war” but the whole tendency in the growth of international law in regard to warfare in the past 125 years has been to relieve non-combatants of needless suffering.

B.—Of course I think it would be an ideal state of affairs, but our enemies violate all the rules and you insist on their being applied to Germany.

L.—One deals with life; the other with property.

B.—Yes.

L.—The German method seems reckless to me. It is as if a man who has a very dim vision should go out on the street with a revolver in search of an enemy and should see the outline of a figure and should immediately fire on him and injure him seriously and then go up and apologize and say he made a mistake. I do not think that would excuse him. That seems to be the course pursued by your submarine commanders—they fire first and inquire afterwards.

B.—I myself cannot at all explain how it comes that so many neutral vessels have been attacked. I have not the slightest evidence. I do not know anything about it from our communications.

L.—Of course we are gradually collecting the evidence. We have not in all the cases but we have in certain ones. The *Tubantia*, for example, seems to have been torpedoed by a German torpedo—a Schwartzkopf.

B.—She was at anchor.

L.—No. I do not think she had let her anchor down but she was preparing to anchor. She was at rest.

B.—Yes, I know. And then there was a Spanish vessel which—

L.—Of course there is this, Mr. Ambassador, that any discussion of the submarine and its present method of attack cannot go on indefinitely.

B.—What was your idea to prevent the break—that we should for the time being stop?

L.—I think the only way is to declare an abandonment and then if the German Government desires to discuss a method of renewal—

B.—An absolute abandonment, to my mind, is impossible. It might be possible to announce stopping for a time for discussion and giving the reason plainly for the purpose of quieting our public opinion, that might be possible.

L.—I understand that you are speaking entirely without instructions.

B.—I am not at all instructed. I am speaking to you purely from my desire to prevent a break.

L.—In view of our note I would not want to say that that would be satisfactory, but if it was made—

B.—I am only trying to see what can be done because a declaration to my Government to absolutely abandon submarine warfare would make a break absolutely necessary. To abandon it would mean the overthrow of the Chancellor.

L.—Probably you would get a more radical man. I realize that.

B.—So the question is what we can do.

L.—There would have to be a complete abandonment first and then if the German Government desires to discuss the matter—

B.—I want to do what I can, because I am perfectly convinced they do not want to break; quite apart from the sentimental side I think they do not want a break. A break would prolong the war. It would last for years.

L.—We do not any of us want to prolong the war.

B.—That is exactly why I want to get out of this present difficulty. From the present state of affairs it looks as if the end is coming and if now there was a break and the United States was brought into the war it would prolong it. It would cause new complications.

L.—New complications?

B.—New economic difficulties.

L.—I think that would be Germany's problem. The only possible course is an abandonment of submarine warfare, whether limited or not would depend on the terms. I would want to see an abandonment first and then possibly a discussion could follow as to how submarine warfare can be conducted within the rules of international law and entire safety of non-combatants, because, of course, in my

viewpoint that is the chief question of international law in regard to attacks by belligerents on enemy's commerce.

B.—Then I am to understand that you do not recognize the law of retaliation?

L.—We do not recognize retaliation when it affects the rights of neutrals.

B.—The British retaliate by stopping all commerce to Germany.

L.—It is a very different thing. The right to life is an inherent right, which man has from birth; the right of property is a purely legal right.

B.—Only in this case, England's methods affect the lives of non-combatants of Germany.

L.—Not neutrals.

B.—No, but it affects non-combatants.

L.—Does it affect their lives? I thought from the statements which have been made that Germany was not suffering from want of food.

B.—But they are trying to starve them. You do not stop England but insist we must stop our retaliation.

L.—But you must appreciate that we care more for the lives of our people than we do for the property.

B.—We have the same difficulty—our people are getting to care more for lives. That is the whole difficulty—we are dealing with a warlike population.

L.—I realize that. I appreciate that you have great difficulty with your public.

B.—If you and I were to have the say in settling the case it would be an easy matter, because one can discuss the matter without heat.

L.—I realize that. It makes it very difficult, but I do not think there is any other course. That certainly may be an impossible course for your Government to pursue, yet I see no other way, and I think I am as anxious to preserve peace as anyone.

B.—I wanted to find out what I could do, because I do not see how they can do it though they might do it temporarily. I am sure that in the first place they would say they believed in the submarine entirely and that secondly the rules of international law must be modified by conditions. Your idea is that the submarine cannot be used if it does comply with the rules.

L.—That is true. My view is that certain instruments of war are not proper to use under certain conditions, and that is the viewpoint that has largely been held in regard to the submarine as a commerce destroyer. You can not and do not know the nationality of the boat attacking. It attacks without being seen and so avoid responsibility. It gives every opportunity to kill indiscriminately and recklessly.

B.—I perfectly agree with you that sinking without warning would have to stop entirely, sinking without warning is an international offense, and that is why I thought possibly my Government might give up the retaliation, but I do not think it would be possible to say we would give up submarine warfare. I do not think we would do it.

L.—And if they should now sink another vessel it would be very serious—that is the way I look at the situation.

B.—And if they continue the submarine warfare and an instance should happen directly after the break of diplomatic relations, if that should come, it would be still more serious.

L.—That is logical.

B.—That is why I look at it so seriously.

L.—I do not feel that breaking off of diplomatic relations necessarily means war.

B.—I do not say it myself but I do not see how it can be avoided. If we refuse it will be because we are to continue submarine warfare and then something might happen which would mean war. I came to see if something could not be done.

L.—I am very much obliged to you for coming in, sir.

B.—Good bye, Mr. Secretary.

L.—Good bye.

184

*The Secretary of State to the President*⁷⁵

April 24, 1916.

MY DEAR MR. PRESIDENT: I enclose a memorandum⁷⁶ on the status of armed merchant vessels, which I prepared a month ago.

It is possible that Germany may abandon submarine war against merchant vessels, and then attack vessels with armaments, claiming that they are not merchant vessels. I think that we should be prepared to meet this move at the very outset, otherwise they will appeal to the letter of January 18th⁷⁷ as an expression of the ideas of this Government.

The memorandum was prepared to show the consistency of the statements in the letter of January 18th with the accepted rules as to the arming of merchant vessels.

I would be obliged if you could let me know at Cabinet tomorrow whether you approve of the memorandum as I may have to use the substance orally in interview with Count Bernstorff.

Faithfully yours,

ROBERT LANSING

⁷⁵ File No. 763.72/2634½.

⁷⁶ Document 187.

⁷⁷ Document 156.

185

*The President to the Secretary of State*⁷⁸

24 April, 1916.

MY DEAR MR. SECRETARY: I have looked this memorandum through with a good deal of care, and think that it covers the whole question comprehensively and with great clearness.

I take it that paragraph No. 13, on page 9, is the one which really defines what we must maintain to be the law with regard to the particular question raised in the German orders of February last with regard to armed merchantmen. It shows that they have left out some of the most necessary elements of their case, namely, orders to attack in all circumstances, right to prize money, and liability to discipline if orders are not carried out.

Is it not law, and might it not be well to bring sharply out, that vessels bound on normal errands of trade are never transformed into war vessels by attacking everything that threatens them on their way, when the purpose is protection?

Faithfully Yours,

W. W.

186

*The Secretary of State to the President*⁷⁹

April 25, 1916.

MY DEAR MR. PRESIDENT: In view of the press despatches which are coming from Berlin—although we have received nothing of an official nature indicating the course which the German Government will pursue—I am convinced that there will be an attempt to compromise in the declaration, if they do make any declaration in regard to the abandonment of submarine warfare. Any conditions which they may advance will undoubtedly be based upon their position as to armed and unarmed merchant vessels.

It would seem to me a decided strategic advantage to have made known clearly our position in regard to armed vessels before Germany presents her reply. To do that it will be necessary for us to make public in some way the memorandum which I sent you Monday morning, and which you returned to me with your general approval. It could be done by a formal statement issued from the Department; by sending the memorandum to the various belligerents; or by sending it to the Committees on Foreign Relations

⁷⁸ File No. 763.72/2634½.

⁷⁹ File No. 763.72/2653½.

and Foreign Affairs in Congress. If it seems advisable to you to do this it seems to me that the time to do it is at once, before we receive Germany's reply.

Faithfully yours,

ROBERT LANSING

P. S. Since writing the foregoing Mr. Polk has just handed me the enclosed memorandum of a conversation over the telephone with Colonel House this afternoon.

[Enclosure]

Memorandum by the Counselor for the Department of State (Polk)

[WASHINGTON,] April 25, 1916.

Colonel House called me up this afternoon shortly after four and said he had just had a conversation with the German Ambassador who had heard from his Government. His Government is most anxious to avoid a break and asked him what was the best course to pursue. They also asked him what was meant by "illegal method of submarine warfare". These two questions will be answered by the Ambassador without going to the Department of State.

His Government also wanted to know if they gave up submarine warfare what the United States would do about the blockade.

Colonel House advised him to tell his Government not to send a note suggesting a compromise, and, above all, not to raise any question in regard to the blockade. He stated the only safe course to pursue would be to advise the German Government to agree to discontinue submarine warfare pending negotiations.

This the Ambassador said he would do at once, and also said he would warn them not to send anything in the nature of a note. In regard to the Blockade, Colonel House pointed out that our relations, as far as Great Britain is concerned, are quite different from our relations with Germany; that war with Germany would be possible, whereas, war with Great Britain was more or less out of the question. This the Ambassador said he understood.

Colonel House thought it advisable to issue at the earliest possible moment the memorandum on armed merchant vessels, a copy of which he had seen. He suggested that it be issued tonight for the morning papers, but I told him in the absence of the President that was impossible. He urged that the matter be presented to the President with the suggestion that the memorandum be given out not later than in time for the afternoon papers Wednesday.

He suggested one or two changes in the wording of the memorandum. These changes have been called to your attention and have been made.

187

*Memorandum by the Secretary of State on the Status of Armed Merchant Vessels, Made Public April 26, 1916*⁸⁰

WASHINGTON, March 25, 1916.

I

The *status* of an armed merchant vessel of a belligerent is to be considered from two points of view: *First*, from that of a neutral when the vessel enters its ports; and, *second*, from that of an enemy when the vessel is on the high seas.

FIRST.—AN ARMED MERCHANT VESSEL IN NEUTRAL PORTS

(1) It is necessary for a neutral Government to determine the *status* of an armed merchant vessel of belligerent nationality which enters its jurisdiction, in order that the Government may protect itself from responsibility for the destruction of life and property by permitting its ports to be used as bases of hostile operations by belligerent warships.

(2) If the vessel carries a commission or orders issued by a belligerent Government and directing it under penalty to conduct aggressive operations, or if it is conclusively shown to have conducted such operations, it should be regarded and treated as a warship.

(3) If sufficient evidence is wanting, a neutral Government, in order to safeguard itself from liability for failure to preserve its neutrality, may reasonably presume from the facts the *status* of an armed merchant vessel which frequents its waters. There is no settled rule of international law as to the sufficiency of evidence to establish such a presumption. As a result a neutral Government must decide for itself the sufficiency of the evidence which it requires to determine the character of the vessel. For the guidance of its port officers and other officials a neutral Government may therefore declare a standard of evidence, but such standard may be changed on account of the general conditions of naval warfare or modified on account of the circumstances of a particular case. These changes and modifications may be made at any time during the progress of the war, since the determination of the *status* of an armed merchant vessel in neutral waters may affect the liability of a neutral Government.

⁸⁰ File No. 763.72/2634½; For. Rel., 1916, supp., p. 244.

The memorandum was summarized in a circular telegram of Apr. 27 to the Diplomatic representatives in certain European countries and Japan (File No. 763.72/2636a).

SECOND.—AN ARMED MERCHANT VESSEL ON THE HIGH SEAS

(1) It is necessary for a belligerent warship to determine the *status* of an armed merchant vessel of an enemy encountered on the high seas, since the rights of life and property of belligerents and neutrals on board the vessel may be impaired if its *status* is that of an enemy warship.

(2) The determination of warlike character must rest in no case upon presumption but upon conclusive evidence, because the responsibility for the destruction of life and property depends on the actual facts of the case and can not be avoided or lessened by a standard of evidence which a belligerent may announce as creating a presumption of hostile character. On the other hand, to safeguard himself from possible liability for unwarranted destruction of life and property the belligerent should, in the absence of conclusive evidence, act on the presumption that an armed merchantman is of peaceful character.

(3) A presumption based solely on the presence of an armament on a merchant vessel of an enemy is not a sufficient reason for a belligerent to declare it to be a warship and proceed to attack it without regard to the rights of the persons on board. Conclusive evidence of a purpose to use the armament for aggression is essential. Consequently an armament which a neutral Government, seeking to perform its neutral duties, may presume to be intended for aggression, might in fact on the high seas be used solely for protection. A neutral Government has no opportunity to determine the purpose of an armament on a merchant vessel unless there is evidence in the ship's papers or other proof as to its previous use, so that the Government is justified in substituting an arbitrary rule of presumption in arriving at the *status* of the merchant vessel. On the other hand, a belligerent warship can on the high seas test by actual experience the purpose of an armament on an enemy merchant vessel, and so determine by direct evidence the *status* of the vessel.

SUMMARY

The *status* of an armed merchant vessel as a warship in neutral waters may be determined, in the absence of documentary proof or conclusive evidence of previous aggressive conduct, by presumption derived from all the circumstances of the case.

The *status* of such vessel as a warship on the high seas must be determined only upon conclusive evidence of aggressive purpose, in the absence of which it is to be presumed that the vessel has a private and peaceable character and it should be so treated by an enemy warship.

In brief, a neutral Government may proceed upon the presumption that an armed merchant vessel of belligerent nationality is armed for aggression, while a belligerent should proceed on the presumption that the vessel is armed for protection. Both of these presumptions may be overcome by evidence—the first by secondary or collateral evidence, since the fact to be established is negative in character; the second by primary and direct evidence, since the fact to be established is positive in character.

II

The character of the evidence upon which the *status* of an armed merchant vessel of belligerent nationality is to be determined when visiting neutral waters and when traversing the high seas having been stated, it is important to consider the rights and duties of neutrals and belligerents as affected by the *status* of armed merchant vessels in neutral ports and on the high seas.

FIRST.—THE RELATIONS OF BELLIGERENTS AND NEUTRALS AS AFFECTED BY THE STATUS OF ARMED MERCHANT VESSELS IN NEUTRAL PORTS

(1) It appears to be the established rule of international law that warships of a belligerent may enter neutral ports and accept limited hospitality there upon condition that they leave, as a rule, within 24 hours after their arrival.

(2) Belligerent warships are also entitled to take on fuel once in three months in ports of a neutral country.

(3) As a mode of enforcing these rules a neutral has the right to cause belligerent warships failing to comply with them, together with their officers and crews, to be interned during the remainder of the war.

(4) Merchantmen of belligerent nationality, armed only for purposes of protection against the enemy, are entitled to enter and leave neutral ports without hindrance in the course of legitimate trade.

(5) Armed merchantmen of belligerent nationality under a commission or orders of their Government to use, under penalty, their armament for aggressive purposes, or merchantmen which, without such commission or orders, have used their armaments for aggressive purposes, are not entitled to the same hospitality in neutral ports as peaceable armed merchantmen.

SECOND.—THE RELATIONS OF BELLIGERENTS AND NEUTRALS AS AFFECTED BY THE STATUS OF ARMED MERCHANT VESSELS ON THE HIGH SEAS

(1) Innocent neutral property on the high seas can not legally be confiscated, but is subject to inspection by a belligerent. Resistance

to inspection removes this immunity and subjects the property to condemnation by a prize court, which is charged with the preservation of the legal rights of the owners of neutral property.

(2) Neutral property engaged in contraband trade, breach of blockade, or unneutral service obtains the character of enemy property and is subject to seizure by a belligerent and condemnation by a prize court.

(3) When hostile and innocent property is mixed, as in the case of a neutral ship carrying a cargo which is entirely or partly contraband, this fact can only be determined by inspection. Such innocent property may be of uncertain character, as it has been frequently held that it is more or less contaminated by association with hostile property. For example, under the Declaration of London (which, so far as the provisions covering this subject are concerned, has been adopted by all the belligerents) the presence of a cargo, which in bulk or value consists of 50 per cent contraband articles, impresses the ship with enemy character and subjects it to seizure and condemnation by a prize court.

(4) Enemy property, including ships and cargoes, is always subject to seizure and condemnation. Any enemy property taken by a belligerent on the high seas is a total loss to the owners. There is no redress in a prize court. The only means of avoiding loss is by flight or successful resistance. Enemy merchant ships have, therefore, the right to arm for the purpose of self-protection.

(5) A belligerent warship is any vessel which, under commission or orders of its Government imposing penalties or entitling it to prize money, is armed for the purpose of seeking and capturing or destroying enemy property or hostile neutral property on the seas. The size of the vessel, strength of armament, and its defensive or offensive force are immaterial.

(6) A belligerent warship has, incidental to the right of seizure, the right to visit and search all vessels on the high seas for the purpose of determining the hostile or innocent character of the vessels and their cargoes. If the hostile character of the property is known, however, the belligerent warship may seize the property without exercising the right of visit and search which is solely for the purpose of obtaining knowledge as to the character of the property. The attacking vessel must display its colors before exercising belligerent rights.

(7) When a belligerent warship meets a merchantman on the high seas which is known to be enemy owned and attempts to capture the vessel, the latter may exercise its right of self-protection either by flight or by resistance. The right to capture and the right to prevent capture are recognized as equally justifiable.

(8) The exercise of the right of capture is limited, nevertheless, by certain accepted rules of conduct based on the principles of humanity and regard for innocent property, even if there is definite knowledge that some of the property, cargo as well as the vessel, is of enemy character. As a consequence of these limitations, it has become the established practice for warships to give merchant vessels an opportunity to surrender or submit to visit and search before attempting to seize them by force. The observance of this rule of naval warfare tends to prevent the loss of life of noncombatants and the destruction of innocent neutral property which would result from sudden attack.

(9) If, however, before a summons to surrender is given, a merchantman of belligerent nationality, aware of the approach of an enemy warship, uses its armament to keep the enemy at a distance, or after it has been summoned to surrender it resists or flees, the warship may properly exercise force to compel surrender.

(10) If the merchantman finally surrenders, the belligerent warship may release it or take it into custody. In the case of an enemy merchantman it may be sunk, but only if it is impossible to take it into port, and provided always that the persons on board are put in a place of safety. In the case of a neutral merchantman, the right to sink it in any circumstance is doubtful.

(11) A merchantman entitled to exercise the right of self-protection may do so when certain of attack by an enemy warship, otherwise the exercise of the right would be so restricted as to render it ineffectual. There is a distinct difference, however, between the exercise of the right of self-protection and the act of cruising the seas in an armed vessel for the purpose of attacking enemy naval vessels.

(12) In the event that merchant ships of belligerent nationality are armed and under commission or orders to attack in all circumstances certain classes of enemy naval vessels for the purpose of destroying them, and are entitled to receive prize money for such service from their Government or are liable to a penalty for failure to obey the orders given, such merchant ships lose their *status* as peaceable merchant ships and are to a limited extent incorporated in the naval forces of their Government, even though it is not their sole occupation to conduct hostile operations.

(13) A vessel engaged intermittently in commerce and under a commission or orders of its Government imposing a penalty, in pursuing and attacking enemy naval craft, possesses a *status* tainted with a hostile purpose which it can not throw aside or assume at will. It should, therefore, be considered as an armed public vessel and receive the treatment of a warship by an enemy and by neutrals. Any

person taking passage on such a vessel can not expect immunity other than that accorded persons who are on board a warship. A private vessel, engaged in seeking enemy naval craft, without such a commission or orders from its Government, stands in a relation to the enemy similar to that of a civilian who fires upon the organized military forces of a belligerent, and is entitled to no more considerate treatment.

188

*The Secretary of State to the Ambassador in Germany (Gerard)*⁸¹

[Telegram]

WASHINGTON, April 28, 1916—7 p.m.

2951.

Your 3799, April 24th, 11 p. m.

You will realize and I hope you will be able to make the Foreign Office realize that this Government looks for as prompt a declaration as possible from the Imperial Government in the sense of our last communication. If Secretary von Jagow asks you as to the methods of warfare which this Government considers to be legal you may hand to him a memorandum reading as follows:

"MEMORANDUM ON CONDUCT OF NAVAL VESSELS TOWARD MERCHANT SHIPS

1. A belligerent warship can directly attack if a merchant vessel resists or continues to flee after a summons to surrender.

2. An attacking vessel must display its colors before exercising belligerent rights.

3. If a merchant vessel surrenders, the attack must immediately cease and the rule as to visit and search must be applied—

(a) by a visit to the vessel by an officer and men of the attacking ship; or

(b) by a visit to the attacking ship by an officer of the vessel attacked, with the ship's papers.

4. An attacking vessel must disclose its identity and name of commander when exercising visit and search.

5. If visit and search disclose that the vessel is of belligerent nationality, the vessel may be sunk only if it is impossible to take it into port, *provided* that the persons on board are put in a place of safety and loss of neutral property is indemnified.

NOTE—(a) A place of safety is not an open boat out of sight of land.

(b) A place of safety is not an open boat, if the wind is strong, the sea rough, or the weather thick, or if it is very cold.

(c) A place of safety is not an open boat which is over-crowded or is small or unseaworthy or insufficiently manned.

⁸¹ File No. 763.72/2630; For. Rel., 1916, supp., p. 252.

6. If, however, visit and search disclose that the vessel is of neutral nationality, it must not be sunk in any circumstances, except of gravest importance to the captor's state, and then only in accordance with the above provisos and notes."

You may further state that this Government is unwilling and cannot consent to have the illegal conduct of Germany's enemies toward neutrals on the high seas made a subject of discussion in connection with the abandonment of illegal methods of submarine warfare.

Delay of the declaration of such abandonment is causing this Government grave concern lest the Imperial Government attempt to introduce subjects of discussion before the declaration, a course which would be entirely unacceptable to this Government and cause a critical situation by compelling action on the part of this Government. You will, therefore, present these views to the Minister of Foreign Affairs and urge that a very early answer be given this Government in order that it may not be forced to take the action which would now be unavoidable should the Imperial Government fail to declare and effect at once the abandonment of illegal submarine warfare.

LANSING

189

*The Secretary of State to the President*⁸²

May 8, 1916.

MY DEAR MR. PRESIDENT: After returning home last evening I took your draft of an answer to the German note⁸³ and went over

⁸² File No. 763.72/2654.

⁸³ The German reply of May 4, 1916, to the American note of Apr. 18, contained the following passages (File No. 763.72/2654; For. Rel., 1916, supp., p. 257.):

"The German Government, conscious of Germany's strength, has twice within the last few months announced before the world its readiness to make peace on a basis safeguarding Germany's vital interests, thus indicating that it is not Germany's fault if peace is still withheld from the nations of Europe.

The German Government feels all the more justified to declare that the responsibility could not be borne before the forum of mankind and history if, after 21 months' duration of the war, the submarine question under discussion between the German Government and the Government of the United States were to take a turn seriously threatening the maintenance of peace between the two nations.

As far as it lies with the German Government, it wishes to prevent things from taking such a course. The German Government, moreover, is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, as principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States.

The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

But neutrals can not expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an effective weapon

it with considerable care. I found on reading it that the same impression I had when we discussed it last evening remained with me—namely, that it expressed satisfaction and gratification, which do not appeal to me. While I think our note should be polite I feel we should omit any expression of relief on having avoided a break with Germany. I also thought the note was longer than was necessary and that it should be limited as far as possible.

With these ideas in mind I made another draft of an answer which I am enclosing, together with your original draft. If final decision can be reached early today I will have Gerard instructed to deliver the note and at the same time have it given to the press for publication tomorrow morning. I hope this can be done, for I feel we should delay as little as possible in the matter.

Faithfully yours,

ROBERT LANSING

190

*The Secretary of State to the Ambassador in Germany (Gerard)*⁸⁴

[Telegram]

WASHINGTON, May 8, 1916—4.15 p. m.

2983. Your 3848, May 4, 6 p. m.

You are instructed to deliver to the Minister of Foreign Affairs a communication textually as follows:

“The note of the Imperial German Government under date of May 4th, 1916, has received careful consideration by the Government of the United States. It is especially noted, as indicating the purpose of the Imperial Government as to the future, that it “is prepared to do its utmost to confine the operations of the war for the rest of its duration to the fighting forces of the belligerents”, and that it is determined to impose upon all its commanders at sea the limitations of the recognized rules of international law upon which the Government of the United States has insisted. Throughout the months which have elapsed since the Imperial Government announced, on February 4, 1915,⁸⁵ its submarine policy, now happily abandoned, the Government of the United States has been constantly guided and restrained by motives of friendship in its patient efforts to bring to an amicable settlement the critical questions arising from that policy. Accepting the Imperial Government's declaration of its abandonment of the policy which has so seriously menaced the good relations between the two

if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it has been violated.”

⁸⁴ File No. 763.72/2654; For. Rel., 1916, supp., p. 263.

⁸⁵ See document 48.

countries, the Government of the United States will rely upon a scrupulous execution henceforth of the now altered policy of the Imperial Government, such as will remove the principal danger to an interruption of the good relations existing between the United States and Germany.

The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it cannot for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other government affecting the rights of neutrals and non-combatants. Responsibility in such matters is single, not joint; absolute, not relative."

LANSING

191

*Press Release Issued by the Department of State, May 8, 1916*⁸⁶

The greater part of the German answer⁸⁷ is devoted to matters which this Government cannot discuss with the German Government. The only questions of right which can be discussed with that Government are those arising out of its action or out of our own, and in no event those questions which are the subject of diplomatic exchanges between the United States and any other country.

The essence of the answer is that Germany yields to our representations with regard to the rights of merchant ships and non-combatants on the high seas and engages to observe the recognized rules of international law governing naval warfare in using her submarines against merchant ships. So long as she lives up to this altered policy we can have no reason to quarrel with her on that score, though the losses resulting from the violation of American rights by German submarine commanders operating under the former policy will have to be settled.

While our differences with Great Britain cannot form a subject of discussion with Germany it should be stated that in our deal-

⁸⁶ File No. 763.72/2654.

The following notation appears on the file copy: "Copies handed to Ass'd Press to be put on the chain, 8:45 p.m. May 8, 1916."

⁸⁷ Of May 4, 1916.

ings with the British Government we are acting, as we are unquestionably bound to act in view of the explicit treaty engagements with that Government. We have treaty obligations as to the manner in which matters in dispute between the two governments are to be handled. We offered to assume mutually similar obligations with Germany, but the offer was declined. When, however, the subject in dispute is a continuing menace to American lives it is doubtful whether such obligations apply unless the menace is removed during the pendency of the proceedings.

192

*The Secretary of State to the President*⁸⁸

May 10, 1916.

MY DEAR MR. PRESIDENT: In the submarine controversy we will unavoidably be forced to meet a situation which will arise, if it has not already arisen, and to determine on a course of action.

The problem is this: A German submarine torpedoes, without conforming in any way to the rules of international law, a merchant vessel of the enemy, which has no Americans on board. No American life is directly endangered by this lawless act, but how did the German submarine commander know that? Is it to be supposed that he considered the matter at all? Did he not simply take a chance?

Now, if the attack is made without definite knowledge as to the nationality of the persons on board, then the action of the submarine commander as a part of a general policy, becomes a serious menace to Americans traveling on merchant ships within the sphere of submarine activity. Though in the particular case cited our rights are not directly affected, they are affected indirectly by making their exercise hazardous.

In our "*Sussex* note" we took a position based on humanity and insisted on respect for neutral rights in general. The rights of all non-combatants are impaired by the conduct referred to. Are we or are we not to consider a sudden attack by a submarine a violation of the assumed pledge of the German Government to comply with the rules of naval warfare even though no American life is immediately endangered?

My own impression is that we will have great difficulty in explaining our position, if we do not resent every lawless attack on a merchant ship whether Americans are or are not among the passengers or crews. On the other hand, I realize that public opinion

⁸⁸ File No. 763.72/2754a.

in this country would not support drastic action unless Americans were killed or imperiled by the submarine warfare. It is to me a very difficult problem to solve, and I would be gratified if you would advise the policy to be followed.

Faithfully yours,

ROBERT LANSING

193

*The President to the Secretary of State*⁸⁹

17 May, 1916.

MY DEAR MR. SECRETARY: I have thought a great deal about the questions you here put,—both before and since you sent me this letter.⁹⁰

Undoubtedly there is an awkward quandary here, but I think we would not be justified in assuming the general representation of neutral rights in this matter, whether our own citizens are affected or not.

If Germany should show a purpose to return to the practices we have objected to by attacking ships again without warning, I think we would be justified in making pointed inquiries of her as to the facts in any given case, even if no Americans were on board; but we would not be justified in acting, unless her reply to those inquiries indicated a departure from the policy she has now agreed to follow.

At any rate, this is my present judgment.

Faithfully Yours,

W. W.

194

*The Ambassador in Russia (Francis) to the Secretary of State*⁹¹

PETROGRAD, May 20, 1916.

[Received June 16.]

SIR: I was called upon May 18 by Mr. J. J. Korostovetz, member of the Council of Ministers of Foreign Affairs, who told me he had been instructed by M. Sazonoff, Minister of Foreign Affairs, and by M. Bark, Minister of Finance, to make inquiries and submit a report concerning the negotiation of the proposed loan to the Russian Government by some American bankers and financial institutions, headed by the National City Bank of New York.

⁸⁹ File No. 763.72/2755.

⁹⁰ Of May 10, 1916, document 192, *supra*.

⁹¹ File No. 861.51/116.

His first inquiry was whether I, as Ambassador, was disposed to look with favor on such a loan. After making clear to him that our Government could in no way be interested in such a loan; consequently it would in no sense incur any moral obligation in connection therewith,—I explained to him the financial responsibility of the National City Bank and those whom it represented, and furthermore expressed the opinion that such a loan would foster the already friendly relations existing between the two countries and would undoubtedly have the effect of promoting their international trade. He said England had been financing Russia and might not like to see such a loan made without her intermediation, but when I explained to him that there was no occasion for any intermediation whatever and that, in fact, our country had recently loaned \$500,000,000 to England and France, he thoroughly concurred with the position I assumed.

Mr. Samuel McRoberts, vice president of the National City Bank, accompanied by another vice president, Mr. Rich, arrived in Petrograd May 15 for the purpose of consummating a loan of \$50,000,000., negotiations for which have been pending for three or six months past. M. Sazonoff told me, as I have already advised you, that Russia would not accept the proffered loan because the American bankers demanded specific security in addition to the faith of Russia. Mr. McRoberts assures me that the plan which he had formulated and which he has submitted by special communication—sent by Mr. Young, the Petrograd representative of the National City Bank, who left for America May 17—will meet the objections of the government here. I am rendering all the assistance I consistently can toward the consummation of this loan, as I think it will have a very beneficial effect on the diplomatic, as well as the commercial relations between the two countries.⁹²

Respectfully yours,

DAVID R. FRANCIS

195

*The Secretary of State to the French Ambassador (Jusserand)*⁹³

No. 1700

WASHINGTON, May 24, 1916.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's note of April 3 last transmitting a memorandum dated February 15, 1916, and communicated in substance to the American

⁹² On Oct. 20, 1914, the Chargé in Russia had been instructed as follows (File No. 861.51/78): "It would be manifestly improper for this Government to take any part in facilitating a loan to one of the belligerent governments."

⁹³ File No. 841.711/346; For. Rel., 1916, supp., p. 604.

The same, on the same date, to the British Ambassador (File No. 841.711/349).

Ambassador in London on February 28, in which are stated the contentions of the British and French Governments in regard to the right to detain and examine parcel and letter mails *en route* by sea between the United States and Europe.

After a discussion of the use of the mails for the transmission of "parcels" and of the limitations to be placed on "inviolable mails," the joint memorandum of February 15 closes with the following assertions:

"1. That from the standpoint of their right of visitation and eventual arrest and seizure, merchandise shipped in post parcels needs not and shall not be treated otherwise than merchandise shipped in any other manner.

"2. That the inviolability of postal correspondence stipulated by the Eleventh Convention of The Hague of 1907 does not in any way affect the right of the allied Governments to visit, and, if occasion arise, arrest and seize merchandise hidden in the wrappers, envelopes, or letters contained in the mail bags.

"3. That true to their engagements and respectful of genuine 'correspondence', the allied Governments will continue, for the present, to refrain on the high seas from seizing and confiscating such correspondence, letters, or despatches, and will insure their speediest possible transmission as soon as the sincerity of their character shall have been ascertained."

In reply the Government of the United States desires to state that it does not consider that the Postal Union Convention of 1906 necessarily applies to the interferences by the British and French Governments with the oversea transportation of mails of which the Government of the United States complains. Furthermore, the Allied Powers appear to have overlooked the admission of the Government of the United States that post parcels may be treated as merchandise subject to the exercise of belligerent rights as recognized by international law. But the Government of the United States does not admit that such parcels are subject to the "exercise of the rights of police [,] supervision, visitation, and eventual seizure which belongs to belligerents as to *all cargoes*"⁹⁴ on the high seas" as asserted in the joint note under acknowledgment.

It is noted with satisfaction that the British and French Governments do not claim, and, in the opinion of this Government, properly do not claim, that their so-called "blockade" measures are sufficient grounds upon which to base a right to interfere with all classes of mail matter in transit to or from the Central Powers. On the contrary, their contention appears to be that, as "genuine correspondence" is under conventional stipulation "inviolable", mail matter of other classes is subject to detention and examination. While the

⁹⁴ Italics supplied by the Secretary of State.

Government of the United States agrees that "genuine correspondence" mail is inviolable, it does not admit that belligerents may search other private sea-borne mails for any other purpose than to discover whether they contain articles of enemy ownership carried on belligerent vessels or articles of contraband transmitted under sealed cover as letter mail, though they may intercept at sea all mails coming out of and going into ports of the enemy's coasts which are effectively blockaded. The Governments of the United States, Great Britain, and France, however, appear to be in substantial agreement as to principle. The method of applying the principle is the chief cause of difference.

Though giving assurances that they consider "genuine correspondence" to be "inviolable", and that they will, "true to their engagements", refrain "on the high seas" from seizing and confiscating such correspondence, the Allied Governments proceed to deprive neutral Governments of the benefits of these assurances by seizing and confiscating mail from vessels in port instead of at sea. They compel neutral ships without just cause to enter their own ports or they induce shipping lines, through some form of duress, to send their mail ships via British ports, or they detain all vessels merely calling at British ports, thus acquiring by force or unjustifiable means an illegal jurisdiction. Acting upon this enforced jurisdiction, the authorities remove all mails, genuine correspondence as well as post parcels, take them to London, where every piece, even though of neutral origin and destination, is opened and critically examined to determine the "sincerity of their character", in accordance with the interpretation given that undefined phrase by the British and French censors. Finally the expurgated remainder is forwarded, frequently after irreparable delay, to its destination. Ships are detained *en route* to or from the United States or to or from other neutral countries, and mails are held and delayed for several days and in some cases for weeks and even months, even though not routed to ports of North Europe *via* British ports. This has been the procedure which has been practiced since the announcement of February 15, 1916. To some extent the same practice was followed before that date, calling forth the protest of this Government on January 4, 1916.⁹⁵ But to that protest the memorandum under acknowledgment makes no reference and is entirely unresponsive. The Government of the United States must again insist with emphasis that the British and French Governments do not obtain rightful jurisdiction of ships by forcing or inducing them to visit their ports for the purpose of seizing their mails, or thereby obtain greater belligerent rights as to such ships than they could exercise on the

⁹⁵ Document 150.

high seas; for there is, in the opinion of the Government of the United States, no legal distinction between the seizure of mails at sea which is announced as abandoned, and their seizure from vessels voluntarily or involuntarily in port. The British and French practice amounts to an unwarranted limitation on the use by neutrals of the world's highway for the transmission of correspondence. The practice actually followed by the Allied Powers must be said to justify the conclusion, therefore, that the announcement of February 15 was merely notice that one illegal practice had been abandoned to make place for the development of another more onerous and vexatious in character.

The present practice is a violation not only of the spirit of the announcement of February 15, but of the rule of the Hague Convention upon which it is concededly based. Aside from this, it is a violation of the prior practice of nations which France and her allies have in the past assisted to establish and maintain, notwithstanding the statement in the memorandum that "as late as 1907 the letters and despatches themselves could be seized and confiscated". During the war between the United States and Mexico, the United States forces allowed British steamers to enter and depart from the port of Vera Cruz without molesting the mails intended for inland points. During the American Civil War Lord Russell endeavored to induce the United States to concede that "Her Majesty's mails on board a private vessel should be exempted from visitation or detention." This exemption of mails was urged in October, 1862, in the case of British mails on board the *Adela*. On October 31 Secretary Seward announced that "public mails of any friendly or neutral Power duly certified or authenticated as such shall not be searched or opened but be put as speedily as may be convenient on the way to their designated destination." In accordance with this announcement the Government of the United States, in the case of the British steamship *Peterhoff*,⁹⁸ which had been seized with her mails against the protest of Her Majesty's Government, had her mails forwarded to destination unopened.

The same rule was followed by France, as I am advised, in the Franco-Prussian War of 1870; by the United States in the Spanish-American War of 1898; by Great Britain in the South African War, in the case of the German mail steamers *Bundesrath* and *General*; by Japan and substantially by Russia in the Russo-Japanese War of 1904. And even in the present war, as the memorandum of Great Britain and France states, their enemy, Germany, has desisted from the practice of interfering with neutral mails, even on board belligerent steamers. This is illustrated by the case of the French steamer

⁹⁸ See vol. I, document 138, p. 466.

Floride captured by the auxiliary cruiser *Prinz Eitel Friedrich*, cited by the British and French Governments in support of their argument regarding parcel mails. In this case the letter mails of the *Floride*, amounting to 144 sacks, were forwarded to their destination by the commander at the first opportunity upon arriving in the United States. It would seem, therefore, to be conclusively established that the interferences with mails of which this Government justly complains, are wrong in principal and in practice.

The arbitrary methods employed by the British and French Governments have resulted most disastrously to citizens of the United States. Important papers which can never be duplicated, or can be duplicated only with great difficulty, such as United States patents for inventions, rare documents, legal papers relating to the settlement of estates, powers of attorney, fire insurance claims, income tax returns, and similar matters, have been lost. Delays in receiving shipping documents have caused great loss and inconvenience by preventing prompt delivery of goods. In the case of the MacNiff Horticultural Company, of New York, large shipments of plants and bulbs from Holland, were, I am informed, frozen on the wharves because possession could not be obtained in the absence of documents relating to them which had been removed from the *New Amsterdam*, *Oosterdijk*, and *Rotterdam*. Business opportunities are lost by failure to transmit promptly bids, specifications, and contracts. The Standard Underground Cable Company of Pittsburgh, for example, sent by mail a tender and specifications for certain proposed electrical works to be constructed in Christiania; after several weeks of waiting, the papers having failed to arrive, the American Company was told that the bids could not be longer held open, and the contract was awarded to a British competitor. Checks, drafts, money-orders, securities, and similar property are lost or detained for weeks and months. Business correspondence relating to legitimate and *bona fide* trade between neutral countries, correspondence of a personal nature, and also certain official correspondence, such as money-order lists, and other matter forwarded by Government Departments, are detained, lost, or possibly destroyed. For instance, the Postmaster General informs me that certain international money-order lists from the United States to Germany, Greece, and other countries, and from Germany to the United States, sent through the mails, have not reached their destination, though despatched several months ago. It was necessary to have some of these lists duplicated and again despatched by the steamship *Frederik VIII*, which sailed from New York on April 19, and from which all the mails intended for Germany have been taken and held in British jurisdiction. As a further example of the delay and loss consequent upon the British practice,

the Postmaster General also sends me a copy of a letter from the British Postal Administration admitting that the mails were removed from the steamer *Medan* in the Downs on January 30th last and not forwarded until some time "between the 2d of February and the 2d of March" and that one hundred eighty-two bags of these mails "were lost during transmission to Holland on the 26th of February by the Dutch steamship *Mecklenburg*". The *Medan* arrived safely at Rotterdam a day or two after she left the Downs. Numerous complaints similar to the foregoing have been received by this Government, the details of which are available, but I believe I have cited sufficient facts to show the unprecedented and vexatious nature of the interference with mails persisted in by British and French authorities. Not only are American commercial interests injured, but rights of property are violated and the rules of International Law and custom are palpably disregarded. I can only add that this continuing offense has led to such losses to American citizens and to a possible responsibility of the United States to repair them, that this Government will be compelled in the near future to press claims for full reclamation upon the attention of His Majesty's Government and that of the French Republic.

The principle being plain and definite, and the present practice of the Governments of Great Britain and France being clearly in contravention of the principle. I will state more in detail the position of the Government of the United States in regard to the treatment of certain classes of sealed mails under a strict application of the principle upon which our Governments seem to be in general accord. The Government of the United States is inclined to the opinion that the class of mail matter, which includes stocks, bonds, coupons, and similar securities is to be regarded as of the same nature as merchandise or other articles of property and subject to the same exercise of belligerent rights. Money-orders, checks, drafts, notes, and other negotiable instruments which may pass as the equivalent of money are, it is considered, also to be classed as merchandise. Correspondence, including shipping-documents, money-order lists, and papers of that character even though relating to "enemy supplies or exports", unless carried on the same ship as the property referred to, are, in the opinion of this Government, to be regarded as "genuine correspondence", and entitled to unmolested passage.

The Government of the United States, in view of the improper methods employed by the British and French authorities in interrupting mails passing between the United States and other neutral countries and between the United States and the enemies of Great Britain, can no longer tolerate the wrongs which citizens of the United States have suffered and continue to suffer through these

methods. To submit to a lawless practice of this character would open the door to repeated violations of international law by the belligerent powers on the ground of military necessity of which the violator would be the sole judge. Manifestly a neutral nation can not permit its rights on the high seas to be determined by belligerents or the exercise of those rights to be permitted or denied arbitrarily by the Government of a warring nation. The rights of neutrals are as sacred as the rights of belligerents and must be as strictly observed.

The Government of the United States, confident in the regard for international law and the rights of neutrals, which the British and French Governments have so often proclaimed and the disregard of which they have urged so vigorously against their enemies in the present war, expects the present practice of the British and French authorities in the treatment of mails from or to the United States to cease and belligerent rights, as exercised, to conform to the principle governing the passage of mail matter and to the recognized practice of nations. Only a radical change in the present British and French policy, restoring to the United States its full rights as a neutral power, will satisfy this Government.

Accept [etc.]

ROBERT LANSING

196

*The Secretary of State to the Ambassador in Russia (Francis)*⁹⁷

[Telegram]

WASHINGTON, June 8, 1916—6 p.m.

860. Your 563, 565, May 24, and 569 May 25, 1 p.m. Before delivering messages to Vanderlip and Guaranty Trust Company, I must inquire whether they refer to Russian Government loans of any description.⁹⁸ If they do, I regret that the Department can not be a party to their transmission, as such action would submit it to justifiable criticism because of participation by this Government in loan transaction by a belligerent for the purpose of carrying on its hostile operations. Such participation is contrary to the accepted rule of international law that neutral Governments should not lend their assistance to the raising of war loans by belligerents.

LANSING

⁹⁷ File No. 861.51/110.

⁹⁸ The Ambassador cabled the following reply on June 10, 1916 (File No. 861.51/115):

"Your 860. Messages to Vanderlip and Guaranty refer to Russian Government loan. Regret troubling you therewith especially since your clear exposition of International law. Most of this fifty million however would be used for paying indebtedness already incurred for noncontraband commodities. Not yet consummated."

197

*The Ambassador in Russia (Francis) to the Secretary of State*⁹⁹

[Telegram]

PETROGRAD, June 19, 1916—6 p.m.

[Received June 20—8:15 a.m.]

619. National City consummated Russian loan \$50,000,000, three years, following terms: Government deposits roubles 150,000,000 in its bank here upon which bank allows $6\frac{1}{2}$ per cent interest and $\frac{1}{4}$ per cent commission quarterly, making total interest $7\frac{1}{2}$ per cent. Lenders give Russian Government credit \$50,000,000 in America to be drawn as Government requires. Lenders privileged to sell deposited roubles any time during three years but must divide equally with Government all obtainable over $33\frac{1}{3}$ which value is arbitrarily placed on rouble in loan. If roubles sold before expiration three years loan is thereby liquidated. Lenders furthermore have option at $94\frac{3}{4}$ per cent on five-year, $5\frac{1}{2}$ per cent. Russian Government loan of \$100,000,000 payable in America less agreed commission.

Embassy had no participation in negotiation but I am personally glad loan was effected as will promote better diplomatic relations which fear have become strained by Embassy's persistent efforts for German-Austrian prisoners and by constant Jewish agitation in America.

FRANCIS

198

*The Acting Secretary of State to the Ambassador in Great Britain (Page)*¹

[Telegram]

WASHINGTON, July 26, 1916—10 p. m.

3578. You are instructed to deliver to Grey a formal note on the subject of the Enemy Trading Act, textually as follows:

"The announcement that His Britannic Majesty's Government has placed the names of certain persons, firms, and corporations in the United States upon a proscriptive 'blacklist' and has forbidden all financial or commercial dealings between them and citizens of Great Britain has been received with the most painful surprise by the people and the Government of the United States, and seems to the Government of the United States to embody a policy of arbitrary interference with neutral trade against which it is its duty to protest in the most decided terms.

The scope and effect of the policy are extraordinary. British steamship companies will not accept cargoes from the proscribed

⁹⁹ File No. 861.51/117.

¹ File No. 763.72112/2758a; For. Rel., 1916, supp., p. 421.

firms or persons or transport their goods to any port, and steamship lines under neutral ownership understand that if they accept freight from them they are likely to be denied coal at British ports and excluded from other privileges which they have usually enjoyed and may themselves be put upon the blacklist. Neutral bankers refuse loans to those on the list and neutral merchants decline to contract for their goods, fearing a like proscription. It appears that British officials regard the prohibitions of the blacklist as applicable to domestic commercial transactions in foreign countries as well as in Great Britain and her dependencies, for Americans doing business in foreign countries have been put on notice that their dealings with blacklisted firms are to be regarded as subject to veto by the British Government. By the same principle Americans in the United States might be made subject to similar punitive action if they were found dealing with any of their own countrymen whose names had thus been listed.

The harsh and even disastrous effects of this policy upon the trade of the United States and upon the neutral rights upon which it will not fail to insist are obvious. Upon the list of those proscribed and in effect shut out from the general commerce of the world may be found American concerns which are engaged in large commercial operations as importers of foreign products and materials and as distributors of American products and manufactures to foreign countries and which constitute important channels through which American trade reaches the outside world. Their foreign affiliations may have been fostered for many years, and when once broken cannot easily or promptly be reestablished. Other concerns may be put upon the list at any time and without notice. It is understood that additions to the proscription may be made 'whenever on account of enemy nationality or *enemy association* of such persons or bodies of persons it appears to His Majesty expedient to do so.' The possibilities of undeserved injury to American citizens from such measures, arbitrarily taken, and of serious and incalculable interruptions of American trade are without limit.

It has been stated on behalf of His Majesty's Government that these measures were aimed only at the enemies of Great Britain and would be adopted and enforced with strict regard to the rights of neutrals and with the least possible detriment to neutral trade, but it is evident that they are inevitably and essentially inconsistent with the rights of the citizens of all the nations not involved in war. The Government of the United States begs to remind the Government of His Britannic Majesty that citizens of the United States are entirely within their rights in attempting to trade with the people or the Governments of any of the nations now at war, subject only to well defined international practices and understandings which the Government of the United States deems the Government of Great Britain to have too lightly and too frequently disregarded. There are well known remedies and penalties for breaches of blockade, where the blockade is real and in fact effective, for trade in contraband, for every unneutral act by whomsoever attempted. The Government of the United States cannot consent to see these remedies and penalties altered or extended at the will of a single power or group of powers to the injury of its own citizens or in derogation of its own rights. Conspicuous among the principles which the civilized nations of the

world have accepted for the safeguarding of the rights of neutrals is the just and honorable principle that neutrals may not be condemned nor their goods confiscated except upon fair adjudication and after an opportunity to be heard, in prize courts or elsewhere. Such safeguards the blacklist brushes aside. It condemns without hearing, without notice, and in advance. It is manifestly out of the question that the Government of the United States should acquiesce in such methods or applications of punishment to its citizens. Whatever may be said with regard to the legality, in the view of international obligation, of the Act of Parliament upon which the practice of the blacklist as now employed by His Majesty's Government is understood to be based, the Government of the United States is constrained to regard that practice as inconsistent with that true justice, sincere amity, and impartial fairness which should characterize the dealings of friendly governments with one another. The spirit of reciprocal trade between the United States and Great Britain, the privilege long accorded to the nationals of each to come and go with their ships and cargoes, to use each the other's shipping, and be served each by the other's merchants is very seriously impaired by arbitrary and sweeping practices such as this. There is no purpose or inclination on the part of the Government of the United States to shield American citizens or business houses in any way from the legitimate consequences of unneutral acts or practices; it is quite willing that they should suffer the appropriate penalties which international law and the usage of nations have sanctioned; but His Britannic Majesty's Government cannot expect the Government of the United States to consent to see its citizens put upon an *ex parte* blacklist without calling the attention of His Majesty's Government, in the gravest terms, to the many serious consequences to neutral right and neutral relations which such an act must necessarily involve. It hopes and believes that His Majesty's Government, in its natural absorption in a single pressing object of policy, has acted without a full realization of the many undesired and undesirable results that might ensue."^{1a}

On account of intense feeling aroused here by the publication of British blacklist it will be necessary to give this Note to the press for publication on Saturday morning. Please so explain to British Foreign Office.

POLK

199

*The Secretary of State to the Chargé in Great Britain (Laughlin)*²

[Telegram]

WASHINGTON, August 15, 1916—6 p.m.

3687. Department informed that American steamer *Rizal* carrying a Philippine cargo refused coal at Colombo because it is not on

^{1a} The British reply to this note, Oct. 10, 1916, printed in *For. Rel.*, 1916, supp., p. 462, was not answered by the United States.

² File No. 300.115/9632; *For. Rel.*, 1916, supp., p. 430.

the so-called White list, and that it is therefore unable to proceed to Gibraltar pending action at London. This Government is loath to believe that British Government, instead of being content with exercise belligerent rights, recognized under international law, of imposing penalties on vessels which may commit offenses punishable by a belligerent, will continue to permit local authorities to resort to such arbitrary practices as this in a case in which there apparently are no grounds recognized by law for interference with neutral trade. Practices of this character resorted to generally by the nations of the world would undoubtedly be most disastrous to international commerce.

Bring matter to attention Foreign Office in sense foregoing.

LANSING

200

The Counselor for the Department of State (Polk) to Representative John J. Fitzgerald^a

WASHINGTON, August 18, 1916.

SIR: In response to your oral request of recent date for information with regard to action taken by the Department in protest to certain acts of the belligerents in the present war in violation of the principles of international law, I have the honor to submit for your information the enclosed memorandum. I have sent you under separate cover a set of the diplomatic correspondence between the United States and the belligerent governments as published to date.

I have [etc.]

FRANK L. POLK

[Enclosure]

August 17, 1916.

MEMORANDUM

(1) *Submission to censorship of the mails*

With reference to this matter, the following statement was prepared by the Department of State and submitted to Senator William J. Stone, Chairman of the Committee on Foreign Relations of the Senate in a letter dated January 20, 1915, which has been published as Senate Document No. 716, 63rd Congress, 3rd Session:—

"As to censorship of mails, Germany as well as Great Britain has pursued this course in regard to private letters falling into their hands. The unquestioned right to adopt a measure of this sort makes objection to it inadvisable.

"It has been asserted that American mail on board of Dutch steamers has been repeatedly destroyed. No evidence to this effect

^a File No. 763.72111/3972a; For. Rel., 1916, supp., p. 3.

has been filed with the Government, and therefore no representations have been made. Until such a case is presented in concrete form, this Government would not be justified in presenting the matter to the offending belligerents. Complaints have come to the Department that mail on board neutral steamers has been opened and detained, but there seem to be but few cases where the mail from neutral countries has not been finally delivered. When mail is sent to belligerent countries open and is of a neutral and private character it has not been molested, so far as the Department is advised."

While it has been charged that the British Government began holding up the mails as early as August, 1914, and that complaints were received in Washington in large numbers at that time, this is incorrect. As shown in the above quotation from the letter to Senator Stone, dated January 20, 1915, no case had been presented up to that time upon which representations to the offending belligerent would have been warranted. Later, however, upon cases being presented in concrete form of mails having been removed by British authorities from the Dutch vessel *Noorderdijk* on December 20, and from the Dutch steamer *Nieuw Amsterdam* on December 23, 1915, and other vessels, the Department promptly on January 4, 1916, instructed Ambassador Page "to lay this matter immediately before the British Government in a formal and vigorous protest and press for a discontinuance of these unwarranted interferences with inviolable mails. Impress upon Sir Edward Grey the necessity for prompt action in this matter." In this note the Department stated, with regard to these seizures of mail by the British Government:

"The Department can not admit the right of British authorities to seize neutral vessels plying directly between American and neutral European ports without touching at British ports, to bring them into port, and, while there, to remove or censor mails carried by them."

On May 24, 1916, the United States again protested against continued interferences with letter mail by the British and French authorities, and stated:

"The Government of the United States, in view of the improper methods employed by the British and French authorities in interrupting mails passing between the United States and the other neutral countries and between the United States and enemies of Great Britain, can no longer tolerate the wrongs which citizens of the United States have suffered and continue to suffer through these methods. To submit to a lawless practice of this character would open the door to repeated violations of international law by the belligerent powers on the ground of military necessity of which the violator would be the sole judge. . . . Only a radical change in the present British and French policy, restoring to the United States its full rights as a neutral, will satisfy this country."

- (2) *That the United States failed to take any action with regard to Great Britain's Orders in Council with regard to contraband and measures tending to blockade Germany*

As early as December 28 [26?], 1914, the United States protested vigorously to the British Government against the seizure and detention in English ports of various vessels laden with American goods destined to neutral ports in Europe.

In this connection I may point out that in a note dated February 16, 1915, the German Government refers to this protest and says:

"It will not be necessary for the German Government to go into detail on this point, especially since the American note to the British Government dated December 28, 1914, which has been brought to their knowledge, has dealt with this point very aptly."

On March 5, 1915, the United States protested against the position taken by the British and French Governments, as set forth in the note of the British Ambassador of March 1, 1915, that the "British and French Governments will therefore hold themselves free to detain and take into ports ships carrying goods of presumed enemy destination, ownership or origin."

On March 30th, upon receipt of the notice of the order in council setting forth the new regulations to be applied by Great Britain and France to prevent all supplies reaching Germany, the United States vigorously protested the illegality of these acts, which if enforced would violate neutral rights. It was pointed out that the proposed measures could not be considered a legal blockade, and that, if enforced, many interferences with our legitimate trade would occur which would impose upon the British Government heavy responsibilities for acts of the British authorities clearly subversive of the rights of neutral nations on the high seas, and that this Government would expect of the British Government [" "] full reparation for every act which under the rules of international law constitutes a violation of neutral rights."

As stated in our note to Great Britain of October 22, 1914;—

"This Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States, irrespective of the provisions of the Declaration of London, and that this Government reserves to itself the right to enter protest or demand in each case in which those rights and duties so defined are violated or their free exercise interfered with, by the authorities of the British Government."

and on July 14, 1915, we stated to the British Government that:

"The United States must insist upon their rights under the principles and rules of international law as hitherto established,

governing neutral trade in time of war, without limitation or impairment by Orders in Council or other municipal legislation by the British Government and will not recognize the validity of prize court proceedings taken under restraints imposed by British municipal law in derogation of the rights of American citizens under international law."

In fact this Government has repeatedly stated that it would refuse to recognize the legality of the so-called blockade of Germany by Great Britain and her allies, and has consistently protested against the practice of Great Britain of bringing neutral vessels into her ports and there searching them for evidence of contraband character of cargo, or of an intention to evade the non-intercourse measures of Great Britain, when no proof of contraband or enemy destination was obtained at time of seizure.

On October 21, 1915, the United States protested in a note to Great Britain against violations of international law authorized by Orders in Council:

1. The methods sought to be employed to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification.

2. That the blockade, upon which such methods are partially founded is ineffective, illegal and indefensible.

3. That the judicial procedure offered as a means of reparation for an international injury is inherently defective for the purpose.

4. That in many cases jurisdiction is asserted in violation of the law of nations.

and insisted that the relations between the United States and Great Britain be governed not by a policy of expediency but by established rules of international law.

With reference to the British Trade With the Enemy Act, approved December 23, 1915, the apparent object of which was to prevent any person doing business in the United Kingdom, from trading with enemies of Great Britain or persons having enemy association in any other part of the world, the Department on January 25, 1916, pointed out to the British Government that the act had been framed without proper regard for the right of persons domiciled in the United States whether they be American subjects or subjects of countries at war with Great Britain, to carry on trade with persons in belligerent countries, and this Government reserved the "right to protest against the application of this act in so far as it affects the trade of the United States, and to contest the legality or rightfulness of imposing restrictions upon the freedom of American trade in this manner".

On July 26, 1916, upon the announcement by Great Britain that she had placed the names of certain persons, firms and corporations in the United States upon a proscriptive "black list", and had forbidden all financial dealings between them and citizens of Great Britain, the United States protested in the most decided terms against this policy of arbitrary interference with neutral trade, and stated that it regarded the practice of the black list "as inconsistent with that true justice, sincere amity and impartial fairness which should characterize the dealings of friendly Governments with one another."

(3) *That the United States took "no notice of the declaration by Great Britain on Nov. 5 (1914) that the entire North Sea was to be considered as a military area, the British having laid mine fields"*

The illegal use of mines in the present war has not been confined to any one belligerent. Both sides have violated the rights of neutrals and have sown large areas of the high seas with mines, the result of which has been the destruction of a number of neutral vessels.

On August 7, 1914, the German Government notified all neutral countries that the trade routes to English ports would be closed by mines.

In a note dated August 11, 1914, the British Ambassador alleged that Germany had scattered contact mines indiscriminately about the North Sea and informed this Government that in view of this fact the British Admiralty would adopt similar methods in self defense.

On August 13th the Secretary of State protested against such action on the part of Great Britain, stating that even "if an enemy of His Majesty's Government, has, as asserted, endangered neutral commerce by an act in violation of the Hague Convention, which cannot be justified on the ground of military necessity", this country saw no reason for Great Britain adopting a similar course, which would add further to the dangers to peaceful navigation of the high seas by vessels of neutral Powers.

On November 3, 1914, Great Britain alleging that during the past week the German Government had scattered mines indiscriminately in the open seas and on main trade routes from America to Liverpool via the north of Ireland; that peaceful merchant ships have already been blown up; and that the mines were laid by some merchant vessels flying neutral flags; declared the North Sea a military area, and that all ships that did not follow an indicated course would be in grave danger from the mines it had been necessary to lay.

On February 4, 1915, Germany in retaliation for various alleged illegal acts on the part of Great Britain, notified neutral nations that "the waters surrounding Great Britain and Ireland, including the whole English channel, are hereby declared a war zone". It was indicated at the same time that they would ignore the rule of international law requiring visit and search and would sink merchantmen without first ascertaining whether they were neutral or enemy ships and without making provisions for the safety of passengers and crew.

To this proclamation the United States on February 10, 1915, protested, and pointed out that such action on the part of Germany would endanger the lives and property of citizens of neutral and friendly nations, and would violate the principles of international law. In its note the United States stated that:

"The Government of the United States has not consented to or acquiesced in any measures which may have been taken by the other belligerent nations in the present war which operate to restrain neutral trade, but has, on the contrary, taken in all such matters a position which warrants it in holding those Governments responsible in the proper way for any unlawful effects upon American shipping which the accepted principles of international law do not justify, and that it therefore regards itself as free in the present instance to take, with a clear conscience and upon accepted principles, the position indicated in this note."

On February 20, 1915, the United States in the interest of neutral commerce, sent identic notes to Germany and Great Britain in which the hope was expressed that these two belligerents "may through reciprocal concessions, find a basis for agreement which will relieve neutral ships engaged in peaceful commerce from the great dangers which they will incur on the high seas adjacent to the coasts of the belligerents", and outlined a course of action with regard to the sowing of mines and the importation of food stuffs into Germany, to which it was hoped they would agree. Unfortunately it was not possible to secure the consent of the two Governments to the proposal.

(4) *That the United States has been unneutral in enforcing a censorship of wireless but permitting freedom of communication by submarine cables*

The reason that wireless messages and cable messages require a different treatment by a neutral Government is as follows: Communications by wireless cannot be interrupted by a belligerent. With a submarine cable it is otherwise. The possibility of cutting cables exists. If a belligerent possesses naval superiority the cable is cut, as was the German cable near the Azores by one of Germany's enemies and as was the British cable near Fanning Island by a German naval force. Since a cable is subject to hostile attack, the

responsibility falls upon the belligerent and not upon the neutral to prevent cable communication.

A more important reason, however, at least from the point of view of a neutral Government, is that messages sent out from a wireless station in neutral territory may be received by belligerent warships on the high seas. If these messages, whether plain or in cipher, direct the movements of warships or convey to them information as to the location of an enemy's public or private vessels, the neutral territory becomes a base of naval operations, to permit which would be essentially unneutral.

As a wireless message can be received by all stations and vessels within a given radius, every message in cipher, whatever its intended destination, must be censored; otherwise military information may be sent to warships off the coast of a neutral. It is manifest that a submarine cable is incapable of becoming a means of direct communication with a warship on the high seas. Hence its use can not, as a rule, make neutral territory a base for the direction of naval operations.

- (5) *That the United States has failed to prosecute agents of belligerent governments for recruiting in the United States in violation of our neutrality and penal laws*

The prosecution of persons alleged to have violated the laws of the United States is entrusted to the Department of Justice. All complaints received by the State Department with regard to violations of our neutrality and penal laws by persons alleged to have recruited within the territory of the United States, for any of the belligerent countries, have been promptly referred to the Department of Justice for investigation and such action as the officials of that Department might think proper. The State Department has not and cannot comment with regard to the conduct of these cases by another Department of the Government. Application should be made to the Department of Justice for any information with regard to this matter.

- (6) *That the Department of Labor has issued instructions that a person shall not be deemed to have lost his American citizenship by enlisting in the military forces of one of the belligerents*

As this refers to instructions claimed to have been issued by another Department, inquiry should be made of the Department of Labor for any information desired with regard to their construction and enforcement of the immigration laws.

As a matter of fact, however, it may be stated that apart from municipal legislation to the contrary, military service by a citizen of

a neutral country in the armed forces of a belligerent has not been held by this Government, or by other nations to expatriate the one so serving. This obviously applies to citizens of a neutral country serving in the ranks of a belligerent on either side of a conflict.

(7) *That the agreement with the Republic of Panama with reference to the coaling of warships in the Panama Canal Zone was unneutral*

By proclamation of Nov. 13, 1914, certain special restrictions were placed on the coaling of warships or their tenders or colliers in the Canal Zone. These regulations were framed through the collaboration of the State, Navy and War Departments and without the slightest reference to favoritism to the belligerents. Before these regulations were proclaimed, war vessels could procure coal of the Panama Railway in the zone ports, but no belligerent vessels are known to have done so. Under the proclamation fuel may be taken on by belligerent warships only with the consent of the canal authorities and in such amounts as will enable them to reach the nearest accessible port; and the amount so taken on shall be deducted from the amount procurable in United States ports within three months thereafter.

Now it is charged that the United States has been partial because Great Britain and not Germany happens to have colonies in the near vicinity where British ships may coal, while Germany has no such coaling facilities. Thus, it is intimated the United States should balance the inequalities of geographical position by refusing to allow any warships of belligerents to coal in the canal until the war is over. Since at the time this complaint was first made, no German warships had sought to obtain coal in the Canal Zone, and since no German warships appear to be now upon the high seas, the charge of discrimination rests upon a possibility of warfare which has so far failed to materialize.

(8) *That the State Department had issued a warning to Americans with German names against traveling in countries hostile to Germany*

The State Department has issued no such warning. Shortly after the outbreak of the present war the Department issued a printed circular entitled "Notice to American Citizens who Contemplate Visiting Belligerent Countries", which contained the following statements:

"American citizens are advised to avoid visiting unnecessarily countries which are at war, and particularly to avoid, if possible passing through or from a belligerent country to a country which is at war therewith.

"It is especially important that naturalized American citizens refrain from visiting their countries of origin and countries which are at war therewith."

This circular was afterwards slightly amended, and now appears under date of October 4, 1915. Subsequently, the Department decided that it was necessary to require each applicant for a passport to state definitely what countries he wished to visit and for what object, and to write upon the face of the passport a statement concerning these matters, in accordance with the statement of the applicant. The Department issues passports to persons who appear to be going to belligerent countries because of some reasonable necessity, but endeavors to avoid the issuance of passports to persons who desire to visit belligerent countries merely for curiosity or pleasure or for any object which appears to be improper. These rules are applied equally to persons going to the belligerent countries on either side. In connection with this matter it may be observed that the Embassy at Berlin reported to the Department some months ago that German regulations required persons desiring to enter Germany to show some urgent necessity for doing so. The Department has not declined to issue passports to American citizens merely because they bear names indicating German or Austrian origin or descent. It is quite true that the Department has been informed that French diplomatic and consular officers have received general instructions not to visa passports of any persons who were born in Germany or Austria, or whose fathers were born in either of those countries, and the Department has informed inquirers to that effect. The Department has not, however, refused to issue passports to American citizens merely because they appeared to be of German birth or descent, even though they wished to visit France or the Allies.

The Department has endeavored, so far as possible, to inform American citizens regarding the regulations of the belligerent countries in regard to entry and travel therein, and the necessity of having their passports visaed.

It is doubtless true that in the early months of the war bearers of American passports were arrested in all of the countries at war. In every case of apparent illegal arrest the United States Government entered vigorous protests with request for release. As stated in the letter of the Department, dated January 20, 1915, to Senator Stone, Chairman of the Senate Committee on Foreign Relations:

"There have come to the Department's notice authentic cases in which American passports have been fraudulently obtained and used by certain German subjects. There are indications that a systematic plan has been devised to obtain American passports through fraud for German officers and reservists desiring to return to Germany.

Such fraudulent use of passports by Germans themselves can have no other effect than to cast suspicion upon American passports in general."

(10)⁴ *Change of policy in regard to loans to belligerents.*

War loans in this country were disapproved because deemed inconsistent with the spirit of neutrality. At the very beginning of the present war this Government announced that in its judgment loans by American bankers to any foreign nation which is at war is inconsistent with the true spirit of neutrality and refused in any way to facilitate such loans.

While expressing its position with regard to these loans, there was no way in which the Government could prevent private loans being made to the belligerents since such loans were in violation of no law of the United States and there was no way in which those making the loans could be prosecuted. The Government has in no way facilitated or encouraged any loans that may have been made.

The State Department has from time to time received information, directly or indirectly, to the effect that belligerent nations had arranged with banks in the United States for credits for various sums. While loans to belligerents have been disapproved, this Government has not felt that it was justified in interposing objection to the credit arrangements which have been brought to its attention. It has neither approved these credits nor disapproved. It has simply taken no action in the premises and expressed no opinion.

(11) *That the Department of State has refused to issue definite statement as to whether a certain report that no official proof of German atrocities in Belgium had ever been discovered, was on file in the State Department*

The Department has denied in the press and also in answer to inquiries that there is any such report as that referred to above on file in the Department. So recently as March, 1916, the Department advised Representative Jacob E. Meeker, in response to his request of March 13, 1916, for copies of documents which he had been informed "were on file in the Department exonerating Germany from the charge of having committed atrocities in Belgium", that a search of the files of the Department had "failed to reveal any official records of the nature referred to."

(12) *That this Government has been unneutral in its conduct and unfriendly in its attitude towards Germany and Austria*

If any American citizens, partizans of Germany and Austria-Hungary, feel that this administration is acting in a way injurious

⁴ No heading no. 9 appears on the file copy of this memorandum.

to the cause of those countries this feeling results from the fact that on the high seas the German and Austro-Hungarian naval power has from the commencement of the present war been inferior to the British. It is the business of a belligerent operating on the high seas, not the duty of a neutral, to prevent contraband from reaching an enemy. Those in this country who sympathize with Germany and Austria-Hungary appear to assume that some obligation rests upon this Government in the performance of its neutral duty to prevent all trade in contraband, and thus to equalize the difference due to the relative naval strength of the belligerents. No such obligation exists; it would be an unneutral act on the part of this Government to adopt such a policy if the Executive had the power to do so. If Germany and Austria-Hungary cannot import contraband from this country, it is not, because of that fact, the duty of the United States to close its markets to the allies. The markets of this country are open upon equal terms to all the world, to every nation, belligerent or neutral.

There is no power in the Executive to prevent the sales of munitions of war to the belligerents. The duty of a neutral to restrict trade in munitions of war has never been imposed by international law or municipal statute. It has never been the policy of this Government to prevent the shipment of arms or ammunition into belligerent territory, except in the case of neighboring American Republics, and then only when civil strife prevailed. Even to this extent the belligerents in the present conflict, when they were neutrals, have never, so far as the records disclose, limited the sale of munitions of war. It is only necessary to point to the enormous quantities of arms and ammunition furnished by manufacturers in Germany to the belligerents in the Russo-Japanese war and the recent Balkan wars to establish the general recognition of the propriety of the trade by a neutral nation.

It may be added that on the 15th of December, 1914, the German Ambassador, by direction of his Government, presented a copy of a memorandum of the Imperial German Government which, among other things, set forth the attitude of that Government toward traffic in contraband of war by citizens of neutral countries. The Imperial Government stated that "under the general principles of international law, no exception can be taken to neutral States letting war material go to Germany's enemies from or through neutral territory".

201

*The Secretary of State to the Chargé in Great Britain (Laughlin)*⁵

No. 4191

WASHINGTON, September 18, 1916.

SIR: The Department has received the Ambassador's No. 4181, of July 10, 1916, enclosing for the information of the Department a copy, in duplicate, of the text of an Order in Council, dated the 7th of July, 1916, entitled "The Maritime Rights Order in Council, 1916," which effects a change in the rules hitherto adopted by the British Government to govern its conduct of warfare at sea during the present war, and transmitting, also in duplicate, a copy of a memorandum which has been drawn up by the British and French Governments explaining the grounds for the issue of the Order in Council mentioned.

You are instructed to address a formal note to Lord Grey, with reference to the Order in Council of July 7, 1916 and the memorandum of the same date on this subject, and say that the Government of the United States, after giving these documents careful consideration, deems the rules therein set forth for the guidance of British authorities as at variance with the law and practice of nations in several respects, in regard to some of which the United States has already made known its views in prior correspondence, and that the Government of the United States reserves all of its rights in the premises, including the right not only to question the validity of these rules, but to present demands and claims in relation to any American interests which may be unlawfully affected directly or indirectly by the application of these rules.⁶

I am [etc.]

ROBERT LANSING

202

*The Secretary of State to the President*⁷

September 21, 1916.

MY DEAR MR. PRESIDENT: There are two matters in connection with our foreign affairs which I understand are being industriously used by the Republicans in their attacks against you. I believe that some steps should be taken to correct the misconception which I feel exists among certain of our people in regard to these subjects.

The first of these is our failure to protest against the German invasion of Belgium. As to that, there is no difficulty, I believe,

⁵ File No. 763.72112/2753; For. Rel., 1916, supp., p. 446.

⁶ One of the rules provided: "The principle of continuous voyage or ultimate destination shall be applicable both in cases of contraband and of blockade."

⁷ File No. 763.72/2926b.

in making it perfectly clear why we did not protest and why we should not have protested. It is only a question of the best method of giving publicity to our explanation. Possibly it might be done by you either in a letter or in an address.

The second subject is more difficult to deal with. It is the delay which has occurred in the *Lusitania* case. Of course, there are reasons for our deliberation which cannot be made public, chief of these being the fact that in the summer of 1915 there was a strong element in the German Government which considered war with the United States desirable, and this powerful faction, headed by Tirpitz, was not subdued by their opponents until last winter. I am not at all satisfied in my own mind how to meet this complaint, which is being successfully used, as I am informed, in certain parts of the country by the opponents of the Administration. It is possible that I could see Bernstorff and take up the settlement of the case along the lines agreed upon last winter, which were interrupted by the declaration of February 10 as to Germany's attitude in dealing with armed merchant vessels. Whether anything could be accomplished along this line at the present time I am not sure, as I presume the German Government, or at least its representatives in this country, would be disposed to delay a settlement on account of the approaching election. Nevertheless, it might be worth while attempting it in order to remove the charge that we were simply letting matters drift. Of course, another way would be to make a public statement of the whole negotiations, but to make it effective would require, I fear, the disclosing of much of the confidential negotiations which have taken place. Doubtless we would be justified in doing this, but at the same time it might cause very considerable resentment on the part of the German Government.

I lay these matters before you, as I consider them of very great importance at the present time. May I have your judgment as to what should be done in regard to them?

Very sincerely yours,

ROBERT LANSING

203

The Secretary of State to the President^{*}

September 22, 1916.

MY DEAR MR. PRESIDENT: There is a means employed frequently by the British Foreign office and occasionally by this Department to communicate in a frank way views which it would be embarrassing to do formally. The way it is done is to send a telegram

^{*} File No. 763.72112/3010a.

to a diplomatic representative which he is permitted to show the Secretary of Foreign Affairs on his own responsibility and in an entirely unofficial manner. An example of this practice was the telegram from Viscount Grey to Sir Cecil, a copy of which I sent you in my letter of the 18th. It has the advantage that it avoids note-writing and not being given publicity avoids the charge of being done for political effect.

It has seemed to me that it might be advisable to pursue this method at the present time in bringing home to the British Government the growing irritation in this country at the blacklisting, censorship of mails and other measures adopted by Great Britain, and the indifference shown by the British Government in failure to make prompt reply to our notes. I am afraid that London does not appreciate that the tide of resentment is rising very high in this country, and that there is a tendency to demand drastic action by this Government. The British Government ought to be fully advised of this menace to our cordial relations, because the removal of it lies with them. I do not think that their representatives here have correctly pictured the state of the public mind in this country or impressed them with the conditions which are rapidly approaching a critical stage.

In accordance with the method of communicating information, which I have mentioned, I have prepared a telegram to our Chargé at London very frankly and very bluntly telling the truth about the present situation. This telegram he is confidentially authorized to show to Lord Grey on his own responsibility and unofficially.

A draft of the proposed telegram to Mr. McLaughlin [*Laughlin*] is enclosed and I would be obliged if you would give me your views as to the advisability of sending any telegram of this nature and as to the language of the telegram, if you approve sending one. I think the decision should be made immediately.

Faithfully yours,

ROBERT LANSING

[Enclosure]

Draft Instruction to the Chargé in Great Britain (Laughlin)^{8a}

We have received, after waiting over six weeks, no reply to our protest of July 26th in regard to the blacklisting of persons in the United States and its possessions. On the contrary, the results of our recent unofficial representations in specific cases of blacklisted firms, and the intimations given to various American firms not to continue business relations of many years standing or not to make new business connections with certain persons, firms and companies

^{8a} Not sent.

resident in the United States or in other neutral countries, together with other information which has come to my attention, but to which it is not necessary at the present time to refer cause me to conclude that the reply to our note of July 26th will be unsatisfactory.

This Government has taken every means in its power, as it has in dealing with other belligerents in this war, to conduct the relations of the United States and Great Britain on a friendly and cordial basis, though maintaining the rights and duties of neutrality as it was bound to do. I regret to say, however, that in no single instance of any importance have the British Government on their part modified their pretensions to extraordinary belligerent privileges so as to conform their conduct to established usage; nor do they appear to have regard for the rights of the United States or for the public opinion of this country. Some of the British practices, which are causing increasing irritation, cannot, so far as I am able to judge, have any material effect on the outcome of the war. The removal of reservists from American vessels on the high seas, the searching of American vessels in territorial waters of the Philippines, the censorship of genuine letter-correspondence, the refusal of cable privileges in legitimate neutral trade, and the blacklisting of American business houses are some of the matters which are carried on now with as much, if not greater, vigor than before this Government protested against them.

I confess that I have been most unfavorably impressed with the absolutely unrelenting attitude of the British Government, courteous though it be, when their measures have been opposed by this Government on grounds of reason, law or practice. Not a single rule that we have contended for and that Great Britain herself has insisted upon in the past, has been admitted by the British Government. A few isolated cases have been decided in our favor but only upon notification that they were acts of grace and must not be regarded as precedents. It should not be a matter of surprise that the American people are resenting more and more this practice of granting favors which are claimed as a matter of right.

When a remonstrance is made by the United States, it is frequently met by the argument that, considering the American attitude toward Germany, Great Britain is surprised that the United States should take such a view of the British action complained of. It would seem needless to point out that the United States is not fighting Great Britain's warfare against submarines. Great Britain should understand that the position which the United States has taken toward submarine warfare, is based primarily on its relations to American rights and interests. I cannot but believe that the apparent purpose of treating our controversies by reference to the conduct of Germany

is based on a misapprehension of the relations between our intercourse with Germany on the one hand and with Great Britain on the other, a misapprehension, but which it has constantly sought to avoid. The respective subjects of controversy are entirely distinct, and this Government, therefore, perceives no ground for changing its firm intention to keep them separate.

If the British Government is expecting an attitude of "benevolent neutrality" on our part—a position which is not neutral and which is not governed by the principles of neutrality—they should know that nothing is further from our intention. The freedom of our shores to commerce of the allied powers for the exportation of thousands of shiploads of all kinds of supplies—munitions, food, clothing and metals—while their enemies have been able to obtain scarcely a single cargo, and the forbearance, if not the leniency, shown by this Government toward Great Britain in cases involving grave breaches of international law, have apparently caused the British Government to misjudge the policy of this Government and the attitude of the people of this country, and led them to believe that ours is a neutrality from which the Allied Powers might expect no remonstrance, no matter how grievously American rights are infringed or American interests impaired.

Such apparent indifference to the viewpoint and views of the United States on the varied subjects of controversy cannot but have its effect upon the Government and people in this country. The continuance of palpably objectionable practices creates the impression, whether justified or not, that Great Britain is indifferent to the friendship and good will of the American people or else confidently believes that nothing done in violation of American rights will be seriously resisted because of the profitable trade being carried on at the present time with the United Kingdom and its Allies; and this impression is growing stronger in this country and materially affecting public opinion. This unyielding attitude of Great Britain has, to my personal knowledge, awakened against the Allies a resentful sentiment among the American people which is in marked contrast to the popular sympathy, which earlier in the war was strongly on their side in the conflict. This is probably shown best by the feeling aroused in the last session of Congress, whose committees held hearings on the effects of British measures on the rights and interests of the people of the United States, and whose opinion was crystallized in certain legislation enlarging the powers of the President to deal with the situation resulting from the British measures which were considered not only as illegal but as needless from a military point of view, and as imposing upon our citizens losses and burdens, to which Great Britain seemed entirely indifferent.

Perhaps the one measure more responsible than any other for this result is the blacklisting plan of the British Government, although the improper censorship of the mails has affected thousands of our people. I cannot too earnestly impress upon you the strong public feeling in the United States in regard to the blacklist. This feeling is naturally most hostile among those of our citizens whose business has been directly affected, but they are not alone in their complaints or in their demands on the Government for radical action. I have taken pains to sound the opinion of the more conservative portion of our people and I am convinced that a bitterness of feeling is increasing to such a degree as to endanger the good relations of the United States and Great Britain. To resist this rapidly growing sentiment this Government will be powerless, unless the British Government shows a more considerate and friendly regard for American rights. I do not know what reports are sent home by British Agents here, but whatever they are they are ill-advised if they have not reported to their Government this change in public opinion. This change is further augmented not only by the fact that the blacklisting plan results in many cases in the transfer of American trade from American houses to British competitors who reside and carry on their business in the United States, but by the belief, whether true or false, that the blacklisting plan, as it has only an infinitesimal effect on the war, is in reality aimed at the destruction of German trade after the war, a purpose which, if true, cannot be justified before the world.

The objectionable features of blacklisting seem to me so apparent that I cannot understand how the British Government can defend it on any but most technical grounds if indeed it can be defended on any grounds. It is clearly an invasion of the independence and sovereignty of the United States by an endeavor to enforce indirectly, if not directly, British laws upon American soil and to impose restraints upon trade in the United States. Not only do the British Government control the actions of British subjects here but seek to control the actions of the American traders. In fact, as I am advised, British agents in their official capacity have gone so far as to intimidate American citizens against pursuing certain lines of business which are entirely legitimate. The criminal nature of such intimidations is receiving the attention of the law officers of the Government with a view to taking such steps to stamp out the practice as may be proper and necessary. There are even some indications that members of the British Embassy and of certain Consulates are involved in such proceedings. If this should prove to be true, I need not tell you that the case would be most serious, and the unavoidable publicity would still further increase the indignation of Americans.

The British Government appears not to comprehend the fact, for it is a fact, that they are really forcing this Government into a position which cannot but result in strained relations between the two countries. The temper of the American people is now so aroused over the attitude and practices of the Allies, that I fear the consequences unless there is some recession on their part. The blacklist and the mail censorship are the matters which are most in the minds of the American people—particularly so because the annoyance to individuals is so intimate and so general. I anticipate, therefore, that in the near future this Government, however reluctantly, will be forced by the strength of public opinion to take steps to put the retaliatory legislation of Congress into effect.⁸ If the Government does not do this, it is easy to foresee that Congress may at its next session make this legislation, which now confers discretionary powers upon the President, mandatory upon the executive authorities.

My great desire is to avoid this possible crisis in Anglo-American relations and to conduct them in conformity with the truest international amity, but I can not view the present situation and its logical outcome with anything but the gravest apprehension. I am therefore sending this to you confidentially and requesting you to let no moment be lost in reporting to me confidentially by telegraph your views on the chances of moving the British Government, first, to an appreciation of the effects of their present policy; second, to a realization of the result which is sure to follow from a continuance of it; and lastly, to a recession from their position by radically changing their objectionable measures.

On your own responsibility you may let Lord Grey read this despatch after deleting this paragraph and heading it merely "Telegram from Mr. Lansing, Secretary of State, to Mr. Laughlin, Chargé d'Affaires" as a frank statement of the views of this Government on the present situation. If he asks for a copy do not hand him one at the time, but have one made and sent to him later marked "unofficial and not to be made a part of the records".

204

*The President to the Secretary of State*⁹

WEST END, NEW JERSEY, 29 September, 1916.

MY DEAR MR. SECRETARY: I think it would be quite unjustifiable to do anything for the sake of public opinion which might change

⁸ See For. Rel., 1916, supp., pp. 466-478.

⁹ File No. 763.72112/3010½.

the whole face of our foreign relations.¹⁰ Therefore I think it would be most unwise to send a message like this.

I had a talk with Walter Page of the most explicit kind, and am sure that he will be able to convey to the powers that be in London a very clear impression of the lamentable and dangerous mistakes they are making. I covered the whole subject matter here dealt with in a way which I am sure left nothing to be desired in the way of explicitness or firmness of tone; and I think that our method had better stop with that for the time being. Let us forget the campaign so far as matters of this sort are concerned.

Faithfully Yours,

W. W.

205

*The President to the Secretary of State*¹¹

WEST END, NEW JERSEY, 29 September, 1916.

MY DEAR MR. SECRETARY: I think the matter of protesting against the invasion of Belgium has been made sufficiently plain to our public.¹²

As for the other matter, it may be well to take up a settlement of the *Lusitania* outrage with Bernstorff if he thinks it can be settled now without soon widening into the ancient difficulty. Let me warn you that negotiation at the present time is very dangerous because it affords the German Government an opportunity to play into the hands of the German mischief makers on this side of the water and supply them with campaign material by all sorts of false impressions. Please go very slowly in this critical matter. The atmosphere of the moment is a most unfavourable one for the handling of things of this kind . . . [Ten words of purely personal reference omitted.]

Please keep me informed of any conversations you may have with him, and take no step without my advice.

At present I hope that the Department will confine itself as much as possible to routine matters. We should ourselves no doubt be unconsciously influenced by political considerations and that would be most unfair to the country.

With sincere regard [etc.]

W. W.

P.S. Please be patient in awaiting replies to your communications from this distracting place. W. W.

¹⁰ This letter is in reply to the Secretary's letter of Sept. 22, 1916, document 203, *supra*.

¹¹ File No. 763.72/2926½.

¹² This letter is in reply to the Secretary's letter of Sept. 21, 1916, document 202.

206

*The Secretary of State to the President*¹³

October 2, 1916.

MY DEAR MR. PRESIDENT: I have your letter of the 29th ultimo in regard to closing the *Lusitania* case.

I believe that I am fully alive to the danger of any negotiations regarding this delicate subject at the present time. When I wrote you about the matter on September 21st, I am afraid that I was impelled more or less by the indignation which I felt at the caustic criticism of the opposition press and speakers. Of course it is unwise to be so influenced although it is human. I am now in a different frame of mind and doubt the wisdom of taking up the matter until after election although, if a settlement was reached which would satisfy the public, it would be of decided political advantage. Appreciating the danger of taking any steps in the matter I shall not act without your explicit direction.

I do not think that the matter requires any further informal negotiations with Bernstorff. A settlement would be reached if we replied that his letter of February 16th was satisfactory. In order that you may refresh your memory on the subject I enclose a copy of his letter.

I am doubtful, however, if this would be expedient just at present because the terms of the settlement would be gone over with a fine-toothed comb, and the criticisms which would undoubtedly be made might later be employed by the German Government. Probably it is better to endure the criticism of delay on our part than to start anew a public discussion of the case, which might embarrass us in the event that submarine warfare is renewed.

I am sorry to trouble you at this time with matters of this sort, and will endeavor to spare you in the future from their consideration, as I appreciate how fully your time is occupied with other subjects, as it ought to be when so much is at stake for the welfare of this country.

Faithfully yours,

ROBERT LANSING

¹³ File No. 763.72/2926½.

207

*The President to the Secretary of State*¹⁴

EN ROUTE, October 6, 1916.

MY DEAR MR. SECRETARY: I have your letters of October second.¹⁵ Pray do not think that you are troubling me unnecessarily about anything that is in your mind.

I am heartily glad that you agree with me about the necessity of holding things in their unstable equilibrium for the present. I feel that we might introduce more elements of disturbance than we remove.

Thank you for sending me a copy to remind me of the contents of von Bernstorff's last letter about the *Lusitania*. It will enable me to freshen my thought for it when we return to the discussion.

Always cordially and sincerely yours,

WOODROW WILSON

208

*The Secretary of State to the President*¹⁶

October 17, 1916.

MY DEAR MR. PRESIDENT: I am enclosing for your consideration a memorandum which I have made on the general subject of the detention and censorship of the mails. In this memorandum I have not sought to traverse the arguments advanced by the Allied Powers in their reply¹⁷ to our note of May 24th,¹⁸ but have sought to view the subject as impartially as possible from the standpoint of principle and applied common sense. An insistence on technicalities will, I feel sure, get us nowhere as each side can bulwark itself behind many legal precedents, which on account of the facts in each case appear to be reasonable and sound. It seems to me, therefore, that we must go back to general principles and determine by logic some solution of the problem.

In considering the subject I think that we should bear in mind that, while we are neutral in the present war, we may be belligerent in the next and may deem it necessary to do certain things which we now regard as extreme restrictions upon neutrals. It would be unfortunate to tie ourselves too tightly to a proposition which we would regret in the future.

¹⁴ File No. 763.72/2927½.

¹⁵ Only one is printed, as document 206, *supra*.

¹⁶ File No. 841.711/1588½.

¹⁷ Dated Oct. 12.

¹⁸ Document 195.

After you have read the memorandum you will perceive that I have reached the following conclusions:

That there are two-classes of mails: *First*, mails going to or toward the Central Powers; and, *second*, mails coming from those powers or from contiguous neutral countries.

That, as to mails coming from neutral countries included in the second class, there is no basis at law or in reason for the inspection of either sealed or unsealed mails.

That, as to the first class there exists the right to inspect unsealed mail and to detain contraband articles; but as to the inspection of sealed mail there is a conflict of principles due to the law of contraband and the theory of inviolability, principles which are irreconcilable because the superiority of right of exercise has never been determined.

From these conclusions the only solution of the problem which suggests itself to me is this:

That we insist that mail outcoming from neutral countries in continental Europe shall be treated as inviolable and shall not be subject to detention, inspection or seizure.

That the extent and exercise of the belligerent right to detain, inspect or seize mail ingoing to continental Europe shall be submitted immediately to arbitration or to a joint commission of inquiry, which shall seek to apply the conflicting principles equitably and lay down a series of rules which may be adopted as a *modus operandi* by this Government and those of the Allies.

After I hear from you in this matter, and provided you approve of this plan, I might take up the matter informally with the British Ambassador and get the views of his Government.

Of course the difficulty is as to the procedure while the commissioners are considering the question. I think that all we could do is to get the best terms possible.

Faithfully yours,

ROBERT LANSING

[Enclosure]

Memorandum on Censorship of Mails

October 13, 1916.

The problem of the seizure and detention or censorship by a belligerent of mails carried in a neutral bottom from a neutral port to an enemy destination or to a neutral destination whither they may without interruption be transmitted to the enemy, results from the conflict of two established principles:

First.—The belligerent right to remove from neutral vessels on the high seas articles of contraband and contraband communications; and

Second.—The neutral right to have mails between neutral countries, and innocent private correspondence between a neutral country and a belligerent country treated as inviolate by belligerents.

It is manifest that neither of these rights can be exercised to their full extent and the other right maintained to any degree. The unimpaired exercise of both rights is impossible. They cannot be brought into harmony.

The question, therefore, arises as to whether the belligerent right of mail-examination or the neutral right of mail-inviolability is the superior right and should govern any attempted adjustment of the conflict between the two rights.

In the first place, all belligerent rights on the high seas are abnormal and contrary to the usual practice of nations in times of peace. As a general proposition, the belligerent right should be strictly construed against the belligerent exercising it, and liberally construed as to the neutral whose normal rights are impaired by such exercise. As a rule, therefore, when a belligerent right conflicts with a recognized neutral right, the latter should be the controlling factor in reaching an adjustment of the differences.

On the other hand, if the full exercise of the neutral right destroys or renders impossible of exercise a recognized belligerent right, it is open to question whether or not the neutral rights should not be so modified as to permit a reasonable exercise of the belligerent right.

The argument in favor of the modification of a neutral right under such conditions rests primarily on the fact that the national safety of the belligerent is at stake, which is in truth the foundation of all exceptional rights over neutrals and their property on the high seas conferred upon belligerents. If the deprivation of a belligerent right materially reduces the possibility of injury to an enemy, or if such deprivation increases the efficiency of an enemy, is a neutral justified in insisting on the observance of neutral right which deprives the belligerent of the right to which he would be entitled if the neutral right did not exist?

If the neutral right is of vital interest there would seem to be strong justification for insisting upon its full observance even though the belligerent right in conflict was nullified by such observance. But, if the neutral right recognized merely the continuance of a practice usual in times of peace, the interruption of which would not impair the vital interests of a neutral state but would cause much inconvenience and possible pecuniary loss to the nationals of that state, it would be of doubtful justice to insist on the exercise

of the neutral right without regard to its effect on the belligerent right.

In large measure the limitations upon neutrals which result from the exercise of belligerent rights on the high seas cause inconvenience and loss to neutrals in their commercial enterprises. It is a consequence which is considered unavoidable and is submitted to because of the recognition of the supreme right of a nation to defend itself by preventing aid from reaching its enemy. Like the right of visit and search, the right to seize articles of contraband and contraband communications is one of the oldest and most universally recognized rights of belligerents. It was established before postal treaties were negotiated and before the post had become a world wide institution and mails measured by tons. The long unquestioned acceptance of the law of contraband raises the query whether the expansion of postal facilities to such an extent as to offer a practical means of transporting contraband articles and correspondence can lessen the full force of the more ancient belligerent right.

To determine whether a mail bag contains contraband articles or contraband correspondence requires inspection by a belligerent. Such an inspection can be easily made of unsealed packets, and little argument can be urged against the propriety of such inspection or against the confiscation of articles of contraband which are found. The chief complaints would arise from the seizure of articles of doubtful contraband character and from undue delay in permitting innocent articles to proceed to their destination.

In the case of sealed mail the real difficulty arises. Admitting that the law of contraband can be applied to all articles and communications found on neutral vessels on the high seas, it is manifest that the law can [not?] be applied to sealed packets without their being opened and inspected. But, if the law of contraband cannot be applied to such mail, a channel of communication and transportation would be open to an enemy, through which might flow uninterruptedly contraband of all sorts because of moderate rates of postage and the size of packages now permitted in first class mail.

It cannot be expected that a belligerent will permit, if there is power to prevent, this means of intercourse to remain free to an enemy; and it is very doubtful whether a neutral is justified in objecting to inspection of sealed mail and to the censorship of correspondence provided the belligerent scrupulously confines the inspection and confiscation of mail matter to that which is unquestionably contraband. If the inspection of correspondence is for the purpose of obtaining information either of a military or civil nature it exceeds the limits of right. The sole legitimate reason

for interruption of mail is to prevent contraband articles and information reaching the enemy. When it is manifest that the acquisition of knowledge is a principal ground for the seizure or detention of mail, it can find no warrant in law or in usage.

The foregoing applies to sealed mail destined to the enemy. In the case of sealed mail between neutral countries, one of which is contiguous to the enemy with whom are uninterrupted postal facilities, the problem is more complex. Admitting the doctrine of ultimate destination, how can the ultimate destination of sealed mail be determined unless it is opened and inspected? If it is not opened, but is permitted to pass with the seals unbroken, has not a sure and safe channel been found for the conduct of an extensive trade in contraband with the enemy of the belligerent allowing its passage? Is there not justification for the belligerent in insisting on an inspection of sealed mail going to a neutral country contiguous to enemy territory?

However strong may be the argument in favor of the justice of a belligerent's rights to inspect sealed mail going toward an enemy and to apply the law of contraband to such mail, the argument cannot be urged with equal force in regard to sealed mail, or even unsealed mail, leaving a neutral country adjacent to enemy territory. The law of contraband, depending upon enemy destination, cannot be invoked. It may be claimed that the right of inspection and seizure arises from the fact of enemy origin of articles, but that cannot be conceded as giving legal effect to such an act, and it certainly cannot be invoked in the case of sealed correspondence.

The opening of sealed correspondence would appear to be for the purpose of obtaining information for the use of the belligerent. That is the unavoidable presumption. Such a purpose is illegal and improper and constitutes a very legitimate ground of complaint by the neutral on whose vessel the mail is carried and also by the neutral to which it is destined. Such mail at least should be absolutely inviolate.

209

*The Secretary of State to the Ambassador in Great Britain (Page)*¹⁹

No. 4467

WASHINGTON, November 11, 1916.

SIR: With reference to the announcement made by the British Foreign Office, under date of April 13, 1916, of the intention of the British Government to treat alike absolute and conditional con-

¹⁹ File No. 763.72112/2527; For. Rel., 1916, supp., p. 483.

Repeated, on the same date, to the Ambassadors in France, Italy, and Russia, with instructions to present copies to the Governments of those countries for their information.

traband,²⁰ you are instructed to communicate to the Foreign Office a formal reservation, in regard to this announcement, in the sense that, in view of the established practice of a number of maritime nations, including Great Britain and the United States, of distinguishing between absolute and conditional contraband, the Government of the United States is impelled to notify the British Government of the reservation of all rights of the United States or its citizens in respect of any American interests which may be adversely affected by the abolition of the distinction between these two classes of contraband, or by the illegal extension of the contraband lists during the present war by Great Britain or her allies.

I am [etc.]

ROBERT LANSING

210

*The Secretary of State to the President*²¹

November 14, 1916.

MY DEAR MR. PRESIDENT: I perceive by your note of today in reply to my letter of October 17th, in relation to the interception of the mails by the Allied Powers, that you misconceived the purpose of the memorandum which I enclosed in my letter. I am afraid I did not make my purpose clear.

I did not intend the memorandum as a draft of reply but merely as a discussion of the subject for the purpose of settling in our own minds the policy which we should adopt in continuing the controversy and in accordance with which we should prepare a reply. It was intended to analyze the arguments on both sides and to find, if possible, a solution to a dispute over apparently irreconcilable rights.

In sending you the letter and the memorandum I sought to obtain your views as to the analysis of the subject in the memorandum and as to whether the course of action suggested in my letter seemed to you to offer a practical solution of the problem, which we could

²⁰ On Jan. 9, 1915, the Secretary of State had prepared the following memorandum (File No. 763.72111/1430):

"NEXT HAGUE CONFERENCE"

Experience thus far has shown that the distinction between *absolute* contraband and *conditional* contraband is valueless.

Economic as well as military pressure is being utilized, so that trade in conditional contraband is as strictly prevented as trade in absolute contraband. To preserve the "conditional" character of contraband is to perpetuate a difference which in actual practice is not recognized by belligerents.

This classification, which is not observed, is a legal fiction. Its recognition causes uncertainty and dispute. It would be better for all parties to abolish the list of conditional contraband, and place certain articles on a general list of contraband, it being understood that all other articles are non-contraband.

The result would be a single list of contraband subject to the treatment now accorded "absolute contraband" and a consequent simplification of practice and a removal of many causes of misunderstanding and difference between belligerents and neutrals."

²¹ File No. 841.711/1589½.

adopt and incorporate in proper form in a note in reply to the British note of October 12th. For that reason I did not refer to the British note in the memorandum, dealing with the subject abstractly rather than concretely, and, furthermore, I did not send you a copy of their note.

I am enclosing a copy of the note now and you will perceive that there are statements and conclusions set forth which we ought not let go unchallenged. So that, if you approve of the analysis in my memorandum and of the policy outlined in my letter, we will use them as general guides in drafting our reply while traversing as far as seems necessary the arguments advanced by Viscount Grey.

I am returning my letter and memorandum to you for consideration in the light of this explanation and I shall await your instructions as to the adoption of the policy proposed and the preparation of a reply, which will of course be submitted to you when drafted.²²

Faithfully yours,

ROBERT LANSING

211

*The Secretary of State to the Ambassador in Great Britain (Page)*²³

No. 4502

WASHINGTON, November 24, 1916.

SIR: The Department has received your No. 4988 of October 11, 1916, with which, having reference to the Department's instruction No. 4191 of September 18,²⁴ in relation to the Maritime Rights Order in Council of 1916, you enclose a copy of a note²⁵ received from the Foreign Office in response to the Embassy's representations in the matter.

You will address to the Foreign Office a note in reply to the effect that without admitting that even individual rights when clearly violated by Orders in Council must be maintained by resort to local tribunals, this Government must announce that it, of course, has no intention to resort to British courts for the maintenance of such of its national rights as may be infringed by Orders in Council of Great Britain.

I am [etc.]

ROBERT LANSING

²² The President replied on Nov. 26, 1916 (File No. 841.711/1590½):

"I fear it was a little stupid in me not to perceive the real character of this memorandum. Thank you for correcting me.

The argument and the position seem to me all right, and I hope that you will prepare our note in reply to the British along these lines. I shall be interested to go over it with you when you shall have completed it."

²³ File No. 763.72112/3089; For. Rel., 1916, supp., p. 485.

²⁴ Document 201.

²⁵ This note, dated Oct. 10, 1916, read in part as follows: ". . . if the rules cited in the order in council are not deemed by the United States Government to be in accordance with international law, they should be challenged in the prize court." (File No. 763.72112/3089; For. Rel., 1916, supp., p. 461.)

212

Press Statement by the Federal Reserve Board, November 28, 1916 ^{25a}

BANK INVESTMENTS IN FOREIGN OBLIGATIONS

In view of contradictory reports which have appeared in the press regarding its attitude toward the purchase by banks in this country of Treasury bills of foreign Governments, the Board deems it a duty to define its position clearly. In making this statement the Board desires to disclaim any intention of discussing the finances or of reflecting upon the financial stability of any nation, but wishes it understood that it seeks to deal only with general principles which affect all alike.

The Board does not share the view frequently expressed of late, that further importations of large amounts of gold must of necessity prove a source of danger or disturbance to this country. That danger, the Board believes, will arise only in case the inflowing gold should remain uncontrolled and be permitted to become the basis of undesirable loan expansions and of inflation. There are means, however, of controlling accessions of gold by proper and voluntary cooperation of the banks or, if need be, by legislative enactment. An important step in this direction would be the anticipation of the final transfer of reserves required by the Federal Reserve Act to become effective on November 16, 1917. This date could be advanced to February or March, 1917. Member banks would then be placed on the permanent basis of their reserve requirements and fictitious reserves would be eliminated. The banks would thus have a clearer conception of actual reserve and financial conditions. It will then appear that while a large increase in the country's gold holdings has taken place, the expansion of loans and deposits has been such that there will not remain any excess of reserves, apart from the important reserve loaning power of the Federal Reserve Banks.

In these circumstances the Board feels that member banks should pursue a policy of keeping themselves liquid; of not loaning down to the legal limit, but of maintaining an excess of reserves—not with reserve agents, where their balances are loaned out and constitute no actual reserve, but in their own vaults or preferably with their Federal Reserve Banks. The Board believes that at this time banks should proceed with much caution in locking up their funds in long-term obligations or in investments, which are short term in form or name but which, either by contract or through force of circumstances, may in the aggregate have to be renewed until nor-

^{25a} *Federal Reserve Bulletin*, December 1916, p. 661.

mal conditions return. The Board does not undertake to forecast probabilities or to specify circumstances which may become important factors in determining future conditions. Its concern and responsibility lies primarily with the banking situation. If however, our banking institutions have to intervene because foreign securities are offered faster than they can be absorbed by investors—that is, their depositors—an element would be introduced into the situation which, if not kept under control, would tend toward instability, and ultimate injury to the economic development of this country. The natural absorbing power of the investment market supplies an important regulator of the volume of our sales to foreign countries in excess of the goods that they send us. The form which the most recent borrowing is taking, apart from reference to its intrinsic merits, makes it appear particularly attractive as a banking investment. The Board, as a matter of fact, understands that it is expected to place the issues primarily with banks. These would appear so attractive that unless a broader and national point of view be adopted, individual banks might easily be tempted to invest to such an extent that the banking resources of this country employed in this manner might run into many hundreds of millions of dollars. While the loans may be short in form, and severally may be collected at maturity, the object of the borrower must be to attempt to renew them collectively, with the result that the aggregate amount placed here will remain until such time as it may be advantageously converted into a long-term obligation. It would, therefore, seem, as a consequence, that liquid funds of our banks, which should be available for short credit facilities to our merchants, manufacturers, and farmers, would be exposed to the danger of being absorbed for other purposes to a disproportionate degree, especially in view of the fact that many of our banks and trust companies are already carrying substantial amounts of foreign obligations, and of acceptances which they are under agreement to renew. The Board deems it, therefore, its duty to caution the member banks that it does not regard it in the interest of the country at this time that they invest in foreign Treasury bills of this character.

The Board does not consider that it is called upon to advise private investors, but as the United States is fast becoming the banker of foreign countries in all parts of the world it takes occasion to suggest that the investor should receive full and authoritative data—particularly in the case of unsecured loans—in order that he may judge the future intelligently in the light of present conditions and in conjunction with the economic developments of the past.

The United States has now attained a position of wealth and of international financial power which in the natural course of events

it could not have reached for a generation. We must be careful not to impair this position of strength and independence. While it is true that a slowing down in the process of credit extension may mean some curtailment of our abnormally stimulated export trade to certain countries, we need not fear that our business will fall off precipitately should we become more conservative in the matter of investing in loans, because there are still hundreds of millions of our own and foreign securities held abroad which our investors would be glad to take over, and, moreover, trade can be stimulated in other directions.

In the opinion of the Board it is the duty of banks to remain liquid in order that they may be able to continue to respond to our home requirements. The nature and scope of these requirements none can foresee. Such a course is moreover necessary in order that our present economic and financial strength may be maintained when, at the end of the war, we shall wish to do our full share in the work of international reconstruction and development which will then lie ahead of us. At that time there will be a clearer understanding of economic conditions as they will then exist and this will enable the country more safely and intelligently to do its proper part in the financial rehabilitation of the world.

213

The Secretary of State to the President^{25b}

WASHINGTON, December 8, 1916.

MY DEAR MR. PRESIDENT: The information which we now have regarding the *Marina*, *Arabia*, and other vessels sunk during the past two months seems to me to create a very serious situation in the submarine matter. We took a very definite stand in the *Sussex* case declaring that we could not continue diplomatic relations with a government which attacked merchant vessels without warning. Germany has done this and attempts to defend her submarine commanders on the ground of mistake, a defense which I do not see how we can accept without receding from our position that there can be no such things as mistakes when American lives are lost or put in jeopardy as a result of the acts of submarine commanders. If we do take that position, and I do not see how we can avoid it, and if we live up to our *Sussex* declaration, as I feel we are honorably bound to do, what course remains other than to reject the explanations offered and announce that we have no alternative but to break off diplomatic relations?

^{25b} File No. 841.857/256 1/2.

I feel that a crisis has come in the submarine matter which ought to be met promptly and squarely. We ought not to let the matter drift along with Germany continuing at intervals to sink vessels on which Americans have taken passage. The longer we delay the more frequent I believe will be these outrages and the less regard will Germany give to our declaration in the *Sussex* case. Delay, in my opinion, will accomplish no ultimate good, as there seems to be a very definite determination on the part of the German Government to make submarine warfare more effective by pursuing more reckless methods, which I am convinced will increase as more submarines are launched.

It is with increasing anxiety that I have seen the progress of events, hoping that in some way the issue might be avoided, for I realize fully how serious a step it will be to sever our relations with Germany. I do not think that we can longer avoid facing the situation with firmness and definitely deciding whether our declaration in the *Sussex* case will be carried out or abandoned.

The facts, on which the foregoing statements are made, are given in the enclosed memoranda.^{25c} The *Marina* and *Arabia* cases are dealt with more fully than those included in the list entitled "Vessels carrying American Citizens sunk by Submarines", which is a continuation of the list dated November 13, 1916, previously sent you. I would in the list call special attention to the *Chemung*, the *Palermo*, and the *John Lambert*.

I am also sending to you a copy of a letter dated today which I have just received from the German Ambassador.

Faithfully yours,

ROBERT LANSING

[Enclosure]

The German Ambassador (Bernstorff) to the Secretary of State

J. No. A 8230

WASHINGTON, December 8, 1916.

MY DEAR MR. SECRETARY: Late yesterday evening I received from Berlin the information about the *Arabia*, which had already reached you through Mr. Grew and had been published yesterday. I, therefore, need not trouble you today for the purpose of transmitting the information I received.

With reference, however, to our last conversation, I beg to repeat, that my Government has instructed me to put myself at your disposal in view of a speedy and satisfactory settlement of the *Marina* and *Arabia* cases. I should, therefore, be very much obliged, if you would kindly let me know confidentially as soon as you have reliable evidence concerning the two cases. My Government has received

^{25c} Not found in Department files. See For. Rel., 1916, supp., pp. 298 ff.

very little information on these matters, as the state of war makes communication very difficult, and is, therefore, prepared to draw its conclusions from any confidential information you may transmit to me.

I remain [etc.]

J. BERNSTORFF.

214

*The President to the Secretary of State*²⁶

27 December, 1916.

MY DEAR MR. SECRETARY: I have just been going over the papers²⁷ I brought down with me from Shadow Lawn, and come across these. I fear I have kept them too long. I will be glad to discuss this and other kindred matters with you when we have seen just what the several belligerents are willing to do about discussing terms of peace.

Faithfully Yours,

W. W.

215

*The Secretary of State to the Ambassador in Great Britain (Page)*²⁸

[Telegram]

WASHINGTON, December 28, 1916—7 p.m.

4224. Department has had several interviews with Crawford, of British Embassy, on subject of bunker agreement. Several cases have arisen recently where American steamship lines have been told that they could not charter or use ships of other neutral countries which ships had signed bunker agreement unless American company agreed to bind not only chartered ships but also all the ships owned by the American company. Careful examination of bunker agreement and statement of subordinate British official indicates an intention to secure control of all neutral shipping through so-called agreement. If the agreement were limited to the chartered ships which signed agreement Department could understand position of British Government, but the attempt to control American ships not requiring British facilities is entirely unreasonable and cannot possibly be permitted by this Government. Crawford states he has cabled in detail to his Government, views of the Department. Investigate subject and report as promptly as possible any information you can gather.

LANSING

²⁶ File No. 841.711/1699½.

²⁷ Relating to the detention and censorship of mails by the Allied Powers. See documents 208 and 210.

²⁸ File No. 763.72112/3267a; For. Rel., 1917, supp. 1, p. 505.

216

*The Secretary of State to the President*²⁹

January 12, 1917.

MY DEAR MR. PRESIDENT: I enclose to you a copy of a letter from the German Ambassador dated January 10th, transmitting a memorandum³⁰ upon the subject of armed merchant ships. His letter also requests an appointment to discuss the matter after I have had an opportunity to examine the memorandum.

I conceive that this memorandum is sent at the present time for the purpose of laying the groundwork for excuse in beginning a more drastic submarine campaign. Before seeing the Ambassador, therefore, I would like very much to have your views upon the memorandum, and the policy which should be taken in treating with him on the subject.

Faithfully yours,

ROBERT LANSING

217

*The Secretary of State to the President*³¹

January 17, 1917.

MY DEAR MR. PRESIDENT: I am sending you a confidential report from Ambassador Page at London (No. 5568, January 5, 1917)³² dealing with the question of armed merchant vessels, which I think that you will read with as much interest as I have, since it not only presents the British point of view but brings out very clearly the difficulties which enter into the problem.

I do not think that we can long delay determining upon a very definite policy in this matter, particularly in view of the fact that a renewal of submarine activities seems imminent. The trouble is there are reasonable arguments on both sides of the question which

²⁹ File No. 763.72111/4443.³⁰ The memorandum contained the following concluding paragraph:

"The German Government has drawn from the evidence herein above communicated the conclusion, in accord with the American memorandum, that armed merchant vessels of its adversaries in this war are to be treated as belligerents. In this it is fully convinced that it is acting on the same grounds as the American Government took in Secretary Lansing's note of January 18, 1916, to the English Ambassador; for in that note the American Government concurs in the view that under the present conditions of U-boat warfare any armament of a merchant ship appears to have the character of armament for aggression, for the mounting of large guns on merchant ships could only be explained by an intention to place the merchant vessel at an advantage over the U-boat and thereby prevent warning and searching by the latter." (File No. 763.72111/4443; For. Rel., 1917, supp. 1, p. 86.)

³¹ File No. 763.72111/4420.³² For. Rel., 1917, supp. 1, p. 546.

lead to conclusions utterly irreconcilable. I can see no common ground for compromise; in that lies the chief difficulty of our situation. It seems to me, however, that the position of this Government ought to be settled and a definite statement prepared which could be issued promptly at the proper time, as doubtless the question will soon become acute.

I enclose for your information in this connection our public statement of September, 1914,³³ and March, 1916,³⁴ dealing with this subject.

As I am taking up the question from the politic as well as the legal point of view I would be greatly obliged for any comments on Mr. Page's report and also for any suggestion on the general subject.

Faithfully yours,

ROBERT LANSING

218

*The Ambassador in Germany (Gerard) to the Secretary of State*³⁵

[Telegram]

BERLIN, January 21, 1917—1 p.m.

[Received January 23—8 a.m.]

4912. At 7.30 yesterday evening Count Montgelas of the Foreign Office called on me and said that the following note had been sent to the embassies and legations of several neutral nations, particularly Spain and Norway, but was not sent to the United States because that country did not seem to be arming its merchant vessels, that Von Stumm, Under Secretary of State, had asked him, Montgelas, to give me a copy. Montgelas further said that Germany had never receded from the position it took concerning armed merchant vessels in the German note of February, 1916.³⁶

The *note verbale* is as follows, and is in French. I send translation and will send original French tomorrow in open cable:

"According to information worthy of belief which the Imperial Government has received from a neutral country, the British Government has endeavored quite recently to decide the neutral shipowners engaged in transportation on its order to arm their ships with cannons. Likewise the armament of these neutral ships has been called for in the most energetic manner by English public opinion.

"In view of these proceedings the German Government thinks it ought to call the attention of the neutrals to the fact that under existing conditions neutral armed merchant ships run the risk of being

³³ See footnote 75, p. 384.

³⁴ Document 187.

³⁵ File No. 763.7211/4441; For. Rel., 1917, supp. 1, p. 91.

³⁶ See footnote 51, p. 458.

taken for armed enemy merchant ships and of being in consequence attacked, these latter ships manoeuvring often under a neutral flag to lay trap for German submarines. Moreover neutral ships of commerce which may make use of their temporary armament will be treated as pirates by the German naval forces.

"The Imperial Department for Foreign Affairs leaves it to the (space for name of legation) to communicate the preceding to its government by telegraph. Berlin, the (-----), to the Legation of (-----)."

Many Germans have informed me lately that the public feeling for the resumption of reckless submarine warfare is so great that they do not see how any government can withstand it. I think myself in spite of assurances from all members of Government that I have talked to that the course of the Government will be to resume reckless submarine warfare by way of attacks without notice on armed merchant vessels, and that an endeavor is being made to place the United States in a position of tacitly or openly consenting to such attacks without notice on armed merchantmen. The above *note verbale* as I read it contains a plain intimation that armed enemy merchant vessels are subject to attack without notice, and if not answered by some declaration from the United States, may lay the way open to Germany to claim that the United States has consented to such attacks. I think the plan is to first compel all neutral governments except the United States to support the German position and thus leave the United States standing alone against all other neutrals. Note the fact of announcement that all recently captured crews taken on armed merchant vessels of enemies will be treated as prisoners of war. If this is accepted, then the ships from which they were taken are recognized as warships and therefore subject to attack without notice.

GERARD

219

*Message of the President to the Senate January 22, 1917*³⁷

GENTLEMEN OF THE SENATE: On the eighteenth of December last I addressed an identic note to the governments of the nations now at war requesting them to state, more definitely than they had yet been stated by either group of belligerents, the terms upon which they would deem it possible to make peace. I spoke on behalf of humanity and of the rights of all neutral nations like our own, many of whose most vital interests the war puts in constant jeopardy. The Central Powers united in a reply which stated merely that they were ready to meet their antagonists in conference to discuss terms of peace.

³⁷ File No. 763.72119/405a; For. Rel., 1917, supp. 1, p. 24.

The Entente Powers have replied much more definitely and have stated, in general terms, indeed, but with sufficient definiteness to imply details, the arrangements, guarantees, and acts of reparation which they deem to be the indispensable conditions of a satisfactory settlement. We are that much nearer a definite discussion of the peace which shall end the present war. We are that much nearer the discussion of the international concert which must thereafter hold the world at peace. In every discussion of the peace that must end this war it is taken for granted that that peace must be followed by some definite concert of power which will make it virtually impossible that any such catastrophe should ever overwhelm us again. Every lover of mankind, every sane and thoughtful man must take that for granted.

I have sought this opportunity to address you because I thought that I owed it to you, as the council associated with me in the final determination of our international obligations, to disclose to you without reserve the thought and purpose that have been taking form in my mind in regard to the duty of our Government in the days to come when it will be necessary to lay afresh and upon a new plan the foundations of peace among the nations.

It is inconceivable that the people of the United States should play no part in that great enterprise. To take part in such a service will be the opportunity for which they have sought to prepare themselves by the very principles and purposes of their polity and the approved practices of their Government ever since the days when they set up a new nation in the high and honourable hope that it might in all that it was and did show mankind the way to liberty. They cannot in honour withhold the service to which they are now about to be challenged. They do not wish to withhold it. But they owe it to themselves and to the other nations of the world to state the conditions under which they will feel free to render it.

That service is nothing less than this, to add their authority and their power to the authority and force of other nations to guarantee peace and justice throughout the world. Such a settlement cannot now be long postponed. It is right that before it comes this Government should frankly formulate the conditions upon which it would feel justified in asking our people to approve its formal and solemn adherence to a League for Peace. I am here to attempt to state those conditions.

The present war must first be ended; but we owe it to candour and to a just regard for the opinion of mankind to say that, so far as our participation in guarantees of future peace is concerned, it makes a great deal of difference in what way and upon what terms it is ended. The treaties and agreements which bring it to an end must embody terms which will create a peace that is worth guaranteeing

and preserving, a peace that will win the approval of mankind, not merely a peace that will serve the several interests and immediate aims of the nations engaged. We shall have no voice in determining what those terms shall be, but we shall, I feel sure, have a voice in determining whether they shall be made lasting or not by the guarantees of a universal covenant; and our judgment upon what is fundamental and essential as a condition precedent to permanency should be spoken now, not afterwards when it may be too late.

No covenant of cooperative peace that does not include the peoples of the New World can suffice to keep the future safe against war; and yet there is only one sort of peace that the peoples of America could join in guaranteeing. The elements of that peace must be elements that engage the confidence and satisfy the principles of the American governments, elements consistent with their political faith and with the practical convictions which the peoples of America have once for all embraced and undertaken to defend.

I do not mean to say that any American government would throw any obstacle in the way of any terms of peace the governments now at war might agree upon, or seek to upset them when made, whatever they might be. I only take it for granted that mere terms of peace between the belligerents will not satisfy even the belligerents themselves. Mere agreements may not make peace secure. It will be absolutely necessary that a force be created as a guarantor of the permanency of the settlement so much greater than the force of any nation now engaged or any alliance hitherto formed or projected that no nation, no probable combination of nations could face or withstand it. If the peace presently to be made is to endure, it must be a peace made secure by the organized major force of mankind.

The terms of the immediate peace agreed upon will determine whether it is a peace for which such a guarantee can be secured. The question upon which the whole future peace and policy of the world depends is this: Is the present war a struggle for a just and secure peace, or only for a new balance of power? If it be only a struggle for a new balance of power, who will guarantee, who can guarantee, the stable equilibrium of the new arrangement? Only a tranquil Europe can be a stable Europe. There must be, not a balance of power, but a community of power; not organized rivalries, but an organized common peace.

Fortunately we have received very explicit assurances on this point. The statesmen of both of the groups of nations now arrayed against one another have said, in terms that could not be misinterpreted, that it was no part of the purpose they had in mind to crush their antagonists. But the implications of these assurances may not be equally clear to all,—may not be the same on both sides of the

water. I think it will be serviceable if I attempt to set forth what we understand them to be.

They imply, first of all, that it must be a peace without victory. It is not pleasant to say this. I beg that I may be permitted to put my own interpretation upon it and that it may be understood that no other interpretation was in my thought. I am seeking only to face realities and to face them without soft concealments. Victory would mean peace forced upon the loser, a victor's terms imposed upon the vanquished. It would be accepted in humiliation, under duress, at an intolerable sacrifice, and would leave a sting, a resentment, a bitter memory upon which terms of peace would rest, not permanently, but only as upon quicksand. Only a peace between equals can last. Only a peace the very principle of which is equality and a common participation in a common benefit. The right state of mind, the right feeling between nations, is as necessary for a lasting peace as is the just settlement of vexed questions of territory or of racial and national allegiance.

The equality of nations upon which peace must be founded if it is to last must be an equality of rights; the guarantees exchanged must neither recognize nor imply a difference between big nations and small, between those that are powerful and those that are weak. Right must be based upon the common strength, not upon the individual strength, of the nations upon whose concert peace will depend. Equality of territory or of resources there of course cannot be; nor any other sort of equality not gained in the ordinary peaceful and legitimate development of the peoples themselves. But no one asks or expects anything more than an equality of rights. Mankind is looking now for freedom of life, not for equipoises of power.

And there is a deeper thing involved than even equality of right among organized nations. No peace can last, or ought to last, which does not recognize and accept the principle that governments derive all their just powers from the consent of the governed, and that no right anywhere exists to hand peoples about from sovereignty to sovereignty as if they were property. I take it for granted, for instance, if I may venture upon a single example, that statesmen everywhere are agreed that there should be a united, independent, and autonomous Poland, and that henceforth inviolable security of life, of worship, and of industrial and social development should be guaranteed to all peoples who have lived hitherto under the power of governments devoted to a faith and purpose hostile to their own.

I speak of this, not because of any desire to exalt an abstract political principle which has always been held very dear by those who have sought to build up liberty in America, but for the same

reason that I have spoken of the other conditions of peace which seem to me clearly indispensable,—because I wish frankly to uncover realities. Any peace which does not recognize and accept this principle will inevitably be upset. It will not rest upon the affections or the convictions of mankind. The ferment of spirit of whole populations will fight subtly and constantly against it, and all the world will sympathize. The world can be at peace only if its life is stable, and there can be no stability where the will is in rebellion, where there is not tranquility of spirit and a sense of justice, of freedom, and of right.

So far as practicable, moreover, every great people now struggling towards a full development of its resources and of its powers should be assured a direct outlet to the great highways of the sea. Where this cannot be done by the cession of territory, it can no doubt be done by the neutralization of direct rights of way under the general guarantee which will assure the peace itself. With a right comity of arrangement no nation need be shut away from free access to the open paths of the world's commerce.

And the paths of the sea must alike in law and in fact be free. The freedom of the seas is the *sine qua non* of peace, equality, and cooperation. No doubt a somewhat radical reconsideration of many of the rules of international practice hitherto thought to be established may be necessary in order to make the seas indeed free and common in practically all circumstances for the use of mankind, but the motive for such changes is convincing and compelling. There can be no trust or intimacy between the peoples of the world without them. The free, constant, unthreatened intercourse of nations is an essential part of the process of peace and of development. It need not be difficult either to define or to secure the freedom of the seas if the governments of the world sincerely desire to come to an agreement concerning it.

It is a problem closely connected with the limitation of naval armaments and the cooperation of the navies of the world in keeping the seas at once free and safe. And the question of limiting naval armaments opens the wider and perhaps more difficult question of the limitation of armies and of all programmes of military preparation. Difficult and delicate as these questions are, they must be faced with the utmost candour and decided in a spirit of real accommodation if peace is to come with healing in its wings, and come to stay. Peace cannot be had without concession and sacrifice. There can be no sense of safety and equality among the nations if great preponderating armaments are henceforth to continue here and there to be built up and maintained. The statesmen of the world must plan for peace and nations must adjust and accommodate their policy to it as they have planned for war and made ready

for pitiless contest and rivalry. The question of armaments, whether on land or sea, is the most immediately and intensely practical question connected with the future fortunes of nations and of mankind.

I have spoken upon these great matters without reserve and with the utmost explicitness because it has seemed to me to be necessary if the world's yearning desire for peace was anywhere to find free voice and utterance. Perhaps I am the only person in high authority amongst all the peoples of the world who is at liberty to speak and hold nothing back. I am speaking as an individual, and yet I am speaking also, of course, as the responsible head of a great government, and I feel confident that I have said what the people of the United States would wish me to say. May I not add that I hope and believe that I am in effect speaking for liberals and friends of humanity in every nation and of every programme of liberty? I would fain believe that I am speaking for the silent mass of mankind everywhere who have as yet had no place or opportunity to speak their real hearts out concerning the death and ruin they see to have come already upon the persons and the homes they hold most dear.

And in holding out the expectation that the people and Government of the United States will join the other civilized nations of the world in guaranteeing the permanence of peace upon such terms as I have named I speak with the greater boldness and confidence because it is clear to every man who can think that there is in this promise no breach in either our traditions or our policy as a nation, but a fulfilment, rather, of all that we have professed or striven for.

I am proposing, as it were, that the nations should with one accord adopt the doctrine of President Monroe as the doctrine of the world: that no nation should seek to extend its polity over any other nation or people, but that every people should be left free to determine its own polity, its own way of development, unhindered, unthreatened, unafraid, the little along with the great and powerful.

I am proposing that all nations henceforth avoid entangling alliances which would draw them into competitions of power, catch them in a net of intrigue and selfish rivalry, and disturb their own affairs with influences intruded from without. There is no entangling alliance in a concert of power. When all unite to act in the same sense and with the same purpose all act in the common interest and are free to live their own lives under a common protection.

I am proposing government by the consent of the governed; that freedom of the seas which in international conference after conference representatives of the United States have urged with the eloquence of those who are the convinced disciples of liberty;³⁸ and that

³⁸ See vol. I, documents 151, 152, and 162, regarding the American proposal for immunity of private property at sea, presented at the Hague Peace Conferences of 1899 and 1907.

moderation of armaments which makes of armies and navies a power for order merely, not an instrument of aggression or of selfish violence.

These are American principles, American policies. We could stand for no others. And they are also the principles and policies of forward looking men and women everywhere, of every modern nation, of every enlightened community. They are the principles of mankind and must prevail.

220

*The President to the Secretary of State*³⁹

24 January, 1917.

MY DEAR MR. SECRETARY: It is only too probable that Gerard's conjectures in this matter are well founded.⁴⁰ I wonder if you have come to any fixed conclusion in your own mind as to whether the recent practices of the British in regard to the arming of their merchantmen force upon us an alteration of our own position in that matter.

Faithfully Yours,

W. W.

221

*The Ambassador in Great Britain (Page) to the Secretary of State*⁴¹

[Telegram]

LONDON, January 25, 1917.

[Received 11 p.m.]

5544. Following notice dated January 24th received from Foreign Office with request that it be brought immediately to attention of United States Government:⁴²

[“] In view of the unrestricted warfare carried on by Germany at sea by means of mines and submarines not only against the Allied Powers but also against neutral shipping and the fact that merchant ships are constantly sunk without regard to the ultimate safety of their crews, His Majesty's Government give notice that on and after the 7th proximo the undermentioned area in the North Sea will be rendered dangerous to all shipping by operations against the enemy and it should therefore be avoided.

Area comprising all the waters except Netherland and Danish territorial waters lying to the southward and eastward of a line com-

³⁹ File No. 763.72111/4469½.

⁴⁰ See document 218.

⁴¹ File No. 841.801/80; For. Rel., 1917, supp. 1, p. 518.

⁴² This notice was replaced on Feb. 13, 1917, by a revised notice which slightly altered the area affected (File No. 841.801/83; For. Rel., 1917, supp. 1, p. 518).

mencing four miles from the coast of Jutland in latitude 56° N., longitude 8° E. from Greenwich and passing through the following positions: latitude 56° N., longitude 6° E., latitude $54^{\circ} 45'$ [N., longitude $4^{\circ} 30'$] E., thence to a position in latitude $53^{\circ} 37'$ [$27'$] N., longitude 5° E., seven miles off the coast of the Netherlands.

To meet the needs of the Netherland coastal traffic which cannot strictly confine itself to territorial waters owing to navigational difficulties a safe passage will be left to the southward of a line joining the following points: latitude $53^{\circ} 27'$ N., longitude 5° E., latitude $53^{\circ} 31\frac{1}{2}'$ N., longitude $5^{\circ} 30'$ E., latitude $53^{\circ} 34'$ E. [N.], latitude [longitude] 6° E., latitude $53^{\circ} 39'$ N., longitude $6^{\circ} 23'$ E."

PAGE

222

*The President to the Secretary of State*⁴³

31 January, 1917.

MY DEAR MR. SECRETARY: This is, to my mind, quite the most puzzling and difficult question we have had to deal with.⁴⁴ It is becoming pretty clear to me that the British are going beyond the spirit, at any rate, of the principles hitherto settled in regard to this matter and that the method in which their ship captains are instructed to use their guns has in many instances gone beyond what could legitimately be called defense. It appears that they have more than once attacked. The question is more whether their guns have been used only for defense than whether they exceed in calibre what would reasonably constitute armament for defense and whether their being mounted in the bow is a presumption that they are to be used for offense. I would be glad to know the progress of your own thought in this matter.

Faithfully Yours,

W. W.

223

*The Secretary of State to the President*⁴⁵

January 31, 1917.

MY DEAR MR. PRESIDENT: I enclose in compliance with your request of January 24th, supplemented by your letter of today, a memorandum of views on the subject of armed merchant vessels.⁴⁶ From the standpoint of abstract right as well of accepted legal

⁴³ File No. 763.72111/4470½.

⁴⁴ This letter is in reply to the Secretary's letter of Jan. 12, 1917, document 216.

⁴⁵ File No. 763.72111/4443.

⁴⁶ Only the summary of the memorandum is printed.

rules I am convinced that the conclusions reached are just and should control our policy in dealing with this vexed and dangerous question.

Of course the whole matter boiled down is this: Since a belligerent has the right to capture or destroy private owned merchant ships of enemy register, such ships are entitled to defend themselves from certain loss to their owners, and their treatment as public ships because they carry an armament adequate to protect them from destruction can find no warrant in the rules of naval warfare or in justice.

I feel that we ought without delay to reach a very definite conclusion as to this matter because everything indicates the intention of the German authorities to treat all armed merchant vessels as ships of war. The press is industriously circulating this view and I understand it is getting its material from the German Embassy. Gerard's reports all point the same way; and the memorandum sent me by the German Ambassador on January 10th (Enclosure B)⁴⁷ makes it very evident that the stage is being set for a new act on the part of his Government. In fact everything is being done to prepare the American public for a more vigorous submarine war on commerce.

If we let the German memorandum go unanswered it will be alleged that we have accepted their interpretation of our declaration of March 25, 1916 (Enclosure C),⁴⁸ and that we are, therefore, *particeps criminis*. Nothing we can say later will remove the impression on our own people that though fully warned we permitted Germany to proceed in her announced purpose of treating armed merchant vessels as warships. For that reason I deem it essential that a very definite attitude should be at once reached.

Furthermore, if the German Government carries out her manifest plan to renew ruthless submarine attacks I believe that the consequences will be irreparable so far as peace is concerned. Not only will the Entente powers be so enraged as to refuse to consider any overtures, but, if we with previous knowledge fail to do all we can to prevent it, your influence over them, I fear, will be seriously impaired, and the very hope of peace will be extinguished.

I believe this is a time to state to Germany frankly and with the greatest firmness our views and to impress them with the possibility of an actual break in our relations if they attempt to carry forward their plan. In dealing with that Government our greatest success has come when they saw we would not recede or compromise. I think this is a time to adopt that course. If we do not, we may

⁴⁷ See footnote 30, p. 540.

⁴⁸ Document 187.

expect, in my opinion, a critical situation especially if American citizens are killed or imperiled.

You may see, Mr. President, from what I have written that I am greatly agitated over the present state of affairs. I am indeed more anxious than I have been since the *Sussex* affair. In many ways this is even a greater crisis as so much depends on nothing being done which will prevent the movement toward peace, and that movement will, I am firmly convinced, come to an end if submarine war of a reckless sort is renewed by Germany.

I enclose also for your consideration a report of the Neutrality Board on this subject (Enclosure D)⁴⁹ which is referred to in my memorandum (Enclosure A).⁵⁰

Faithfully yours,

ROBERT LANSING

P.S. Since writing the foregoing the German Ambassador has been to see me and has left me a communication accompanied by two memoranda (Enclosure E),⁵¹ which shows the prognostications were right, and we are face to face with the gravest crisis presented since the war began. I think that as soon as you have read these papers we should have a conference to determine the course to be taken. R. L.

[Enclosure—Extract]

Memorandum on Armed Merchant Vessels

SUMMARY

January 30, 1917.

(1) The following vessels should be treated as warships:

- (a) Vessels under government commissions or orders to use force without restraint;
- (b) Vessels with officers in the service and pay of the government;
- (c) Vessels carrying a naval flag;
- (d) Vessels named on the naval list.

Such vessels, being warships, may be attacked without warning, and the United States Government is not responsible for the protection of life and property on board, the decision of C. J. Marshall to the contrary notwithstanding.

(2) Other armed vessels should be treated as merchantmen, so long as they leave port under an assurance of their government that they are not to operate aggressively, and so long as there is no

⁴⁹ Not printed.

⁵⁰ Only the summary of the memorandum is printed.

⁵¹ Document 224.

reason to doubt their faithful compliance with the assurance. To avoid criticism by the other belligerent, and possible claims for unneutral conduct, as well as to preserve friendly relations with him by restraining excessive armament, it would be wise, however, as a matter of policy, to place a limit on the number of guns, on their size, and on the number of men and officers serving them. A reasonable maximum limit of armament for defensive purposes under present conditions would, it is believed, be the following: four guns of six inches or less caliber, placed anywhere on the ship, with an officer for each gun, and a number of men for each gun equal to the caliber in inches, the officers and men not to be members of the regular military forces detached for temporary duty, but still in the service and pay of the government, though they may be members of the reserve. This strength of armament has been recommended by the Joint State and Navy Neutrality Board as the "reasonable minimum" which a merchant vessel might carry for self-defence, but it is believed that for the guidance of the Government in view of present conditions of naval warfare, and in order not to give the impression of opening the doors to excessive armament, the Board's "reasonable minimum" would appropriately serve as a conservative maximum armament for peaceful belligerent merchant vessels.

224

*The German Ambassador (Bernstorff) to the Secretary of State*⁵²

[Translation⁵³]

WASHINGTON, *January 31, 1917.*

MR. SECRETARY OF STATE: Your excellency were good enough to transmit to the Imperial Government a copy of the message which the President of the United States of America addressed to the Senate on the 22, inst. The Imperial Government has given it the earnest consideration which the President's statements deserve, inspired as they are, by a deep sentiment of responsibility. It is highly gratifying to the Imperial Government to ascertain that the main tendencies of this important statement correspond largely to the desires and principles professed by Germany. These principles especially include Selfgovernment and equality of rights for all nations. Germany would be sincerely glad if in recognition of this principle countries like Ireland and India, which do not enjoy the benefits of political independence, should now obtain their freedom. The German people also repudiate all alliances which serve to force

⁵² File No. 763.72/3179; For. Rel., 1917, supp. 1, p. 97.

⁵³ Transmitted with the German text.

the countries into a competition for might and to involve them in a net of selfish intrigues. On the other hand, Germany will gladly cooperate in all efforts to prevent future wars. The freedom of the seas, being a preliminary condition of the free existence of nations and the peaceful intercourse between them, as well as the open door for the commerce of all nations, has always formed part of the leading principles of Germany's political program. All the more the Imperial Government regrets that the attitude of her enemies who are so entirely opposed to peace makes it impossible for the world at present to bring about the realization of these lofty ideals. Germany and her allies were ready to enter now into a discussion of peace and had set down as basis the guaranty of existence, honor and free development of their peoples. Their aims, as has been expressly stated in the note of December 12, 1916, were not directed towards the destruction or annihilation of their enemies and were according to their conviction perfectly compatible with the rights of the other nations. As to Belgium for which such warm and cordial sympathy is felt in the United States, the Chancellor had declared only a few weeks previously that its annexation had never formed a part of Germany's intentions. The peace to be signed with Belgium was to provide for such conditions in that country, with which Germany desires to maintain friendly neighborly relations, that Belgium should not be used again by Germany's enemies for the purpose of instigating continuous hostile intrigues. Such precautionary measures are all the more necessary, as Germany's enemies have repeatedly stated not only in speeches delivered by their leading men, but also in the statutes of the economical conference in Paris, that it is their intention not to treat Germany as an equal, even after peace has been restored but to continue their hostile attitude and especially to wage a systematical economical war against her.

The attempt of the four allied powers to bring about peace has failed owing to the lust of conquest of their enemies, who desired to dictate the conditions of peace. Under the pretence of following the principle of nationality our enemies have disclosed their real aims in this war, viz. to dismember and dishonor Germany, Austria-Hungary, Turkey and Bulgaria. To the wish of reconciliation they oppose the will of destruction. They desire a fight to the bitter end.

A new situation has thus been created which forces Germany to new decisions. Since two years and a half England is using her naval power for a criminal attempt to force Germany into submission by starvation. In brutal contempt of International Law the group of Powers led by England does not only curtail the legitimate trade of their opponents but they also by ruthless pressure compel neutral countries either to altogether forego every trade not agreeable to

the Entente-Powers or to limit it according to their arbitrary decrees. The American Government knows the steps which have been taken to cause England and her allies to return to the rules of International Law and to respect the freedom of the seas. The English Government, however, insists upon continuing its war of starvation, which does not at all affect the military power of its opponents, but compels women and children, the sick and the aged to suffer, for their country, pains and privations which endanger the vitality of the Nation. Thus British tyranny mercilessly increases the sufferings of the world indifferent to the laws of humanity, indifferent to the protests of the Neutrals whom they severely harm, indifferent even to the silent longing for peace among England's own allies. Each day of the terrible struggle causes new destruction, new sufferings. Each day shortening the war will, on both sides, preserve the life of thousands of brave soldiers and be a benefit to mankind.

The Imperial Government could not justify before its own conscience, before the German people and before history the neglect of any means destined to bring about the end of the war. Like the President of the United States the Imperial Government had hoped to reach this goal by negotiations. After the attempts to come to an understanding with the Entente-Powers have been answered by the latter with the announcement of an intensified continuation of the war, the Imperial Government—in order to serve the welfare of mankind in a higher sense and not to wrong its own people—is now compelled to continue the fight for existence, again forced upon it, with the full employment of all the weapons which are at its disposal.

Sincerely trusting that the people and Government of the United States will understand the motives for this decision and its necessity, the Imperial Government hopes that the United States may view the new situation from the lofty heights of impartiality and assist, on their part, to prevent further misery and avoidable sacrifice of human life.

Enclosing two memoranda regarding the details of the contemplated military measures at sea,⁵⁴ I remain [etc.]

J. BERNSTORFF

⁵⁴ In the translation received by cable from the Ambassador in Germany on Feb. 2, 1917, this phrase is replaced by the following paragraph (File No. 763.72/3182):

"I beg to direct attention to the inclosed memorandum for the details of the proposed measures of war on the seas and to give expression at the same time to the expectations that the American Government will warn American vessels against entering the proscribed areas described in the inclosure, and warn its nationals not to confide passengers or goods to vessels touching ports in the proscribed areas.["]

[Enclosure 1]

MEMORANDUM

After bluntly refusing Germany's peace offer the Entente-powers, stated in their note addressed to the American Government, that they are determined to continue the war in order to deprive Germany of german provinces in the West and the East, to destroy Austria-Hungary and to annihilate Turkey. In waging war with such aims, the Entente allies are violating all rules of International Law, as they prevent the legitimate trade of Neutrals with the Central Powers, and of the Neutrals among themselves. Germany has, so far, not made unrestricted use of the weapon which she possesses in her submarines. Since the Entente Powers, however, have made it impossible to come to an understanding based upon equality of rights of all nations, as proposed by the Central Powers, and have instead declared only such a peace to be possible, which shall be dictated by the Entente-Allies and shall result in the destruction and humiliation of the Central Powers, Germany is unable further to forego the full use of her submarines. The Imperial Government, therefore, does not doubt that the Government of the United States will understand the situation thus forced upon Germany by the Entente-Allies' brutal methods of war and by their determination to destroy the Central Powers, and that the Government of the United States will further realize that the now openly disclosed intentions of the Entente-Allies give back to Germany the freedom of action which she reserved in her note addressed to the Government of the United States on May 4, 1916.

Under these circumstances Germany will meet the illegal measures of her enemies by forcibly preventing after February 1, 1917 in a zone around Great Britain, France, Italy and in the Eastern Mediterranean all navigation, that of neutrals included, from and to England and from and to France etc. etc. All ships met within that zone will be sunk.

The Imperial Government is confident that this measure will result in a speedy termination of the war and in the restoration of peace which the Government of the United States has so much at heart. Like the Government of the United States Germany and her allies had hoped to reach this goal by negotiations. Now that the war, through the fault of Germany's enemies, has to be continued, the Imperial Government feels sure that the Government of the United States will understand the necessity of adopting such measures as are destined to bring about a speedy end of the horrible and useless bloodshed. The Imperial Government hopes all the more for such an understanding of her position, as the neutrals have under the

pressure of the Entente-Powers, suffered great losses, being forced by them either to give up their entire trade or to limit it according to conditions arbitrarily determined by Germany's enemies in violation of International Law.

[Enclosure 2]

MEMORANDUM

From February 1, 1917, all sea traffic will be stopped with every available weapon and without further notice in the following blockade zones around Great Britain, France, Italy and in the Eastern Mediterranean.

In the North: The zone is confined by a line at a distance of 20 seamiles along the Dutch coast to Terschelling fire [light?] ship, the degree of longitude from Terschelling fire [light?] ship to Udsire, a line from there across the point 62 degrees north 0 degrees longitude to 62 degrees north 5 degrees west, further to a point 3 seamiles south of the southern point of the Faroe Islands, from there across point 62 degrees north 10 degrees west to 61 degrees north 15 degrees west, then 57 degrees north 20 degrees west to 47 degrees north 20 degrees west, further to 43 degrees north, 15 degrees west, then along the degree of latitude 43 degrees north to 20 seamiles from Cape Finisterre and at a distance of 20 seamiles along the north coast of Spain to the French boundary.

In the South: The Mediterranean.

For neutral ships remains open: The sea west of the line Pte. de l'Espiguette to 38 degrees 20 minutes north and 6 degrees east, also north and west of a zone 61 seamiles wide along the Northafrican coast, beginning at 2 degrees longitude west. For the connection of this sea zone with Greece there is provided a zone of a width of 20 sea miles north and east of the following line: 38 degrees north and 6 degrees east to 38 degrees north and 10 degrees east to 37 degrees north and 11 degrees 30 minutes east to 34 degrees north and 11 degrees 30 minutes east to 34 degrees north and 22 degrees 30 minutes east.

From there leads a zone 20 seamiles wide west of 22 degrees 30 minutes eastern longitude into Greek territorial waters.

Neutral ships navigating these blockade zones do so at their own risk. Although care has been taken, that neutral ships which are on their way toward ports of the blockade zones on February 1, 1917, and have come in the vicinity of the latter, will be spared during a sufficiently long period it is strongly advised to warn them with all available means in order to cause their return.

Neutral ships which on February 1, are in ports of the blockaded zones, can, with the same safety, leave them if they sail before February 5, 1917, and take the shortest route into safe waters.

The instructions given to the commanders of german submarines provide for a sufficiently long period during which the safety of passengers on unarmed enemy passenger ships is guaranteed.

Americans, *en route* to the blockade zone on enemy freight steamers, are not endangered, as the enemy shipping firms can prevent such ships in time from entering the zone.

Sailing of regular American passenger steamers may continue undisturbed after February 1, 1917, if—

- a) The port of destination is Falmouth
- b) sailing to or coming from that port course is taken via the Scilly Islands and a point 50 degrees north 20 degrees west,
- c) the steamers are marked in the following way which must not be allowed to other vessels in American ports: On ships' hull and superstructure 3 vertical stripes 1 meter wide each to be painted alternately white and red. Each mast should show a large flag checkered white and red, and the stern the American national flag.
Care should be taken that, during dark, national flag and painted marks are easily recognizable from a distance and that the boats are well lighted throughout,
- d) one steamer a week sails in each direction with arrival at Falmouth on Sunday and departure from Falmouth on Wednesday
- e) The United States Government guarantees that no contraband (according to German contraband list) is carried by those steamers.

225

*Memorandum by the Secretary of State*⁵⁵

These papers⁵⁶ the President handed back to me after a conference at the White House (January 31, 1917, 8:45–10:30 p.m.). The German note of January 31st with two memoranda were the subject of discussion and its receipt made the subject of the letter and memorandum on armed merchant ships unnecessary of consideration. The President, however, indicated that he was in doubt as to the soundness of the memorandum of the 30th.

February 1, 1917.

ROBERT LANSING

⁵⁵ File No. 763.72111/4443.

⁵⁶ See document 223.

The Secretary of State to the President ⁵⁷

February 2, 1917.

MY DEAR MR. PRESIDENT: I have been considering deeply and I believe without emotion the present crisis and just what course should be taken. The results are as follows:

I am firmly convinced that we must without taking any preliminary step break off diplomatic relations by sending Bernstorff and his suite home and by recalling Gerard and closing our Embassy at Berlin.

The next step is less clear and requires very careful thought before it is adopted. There seem to be two courses open to us.

First: To follow the severance of diplomatic relations by announcing to Congress this action with a statement that this Government must consider Germany to be an international outlaw, and that it would be necessary to warn Americans to keep away from the seas infested by its piratical craft.

Second: To follow up the severance of relations by announcing to Congress this action with a statement that Germany has forfeited every consideration by reason of her breach of faith, that the full criminality of her previous acts is revived and that no other honorable course remains but for this country to employ every resource which it possesses to punish the guilty nation and to make it impotent to commit in the future crimes against humanity.

The first course has certain advantages in that, while we would not be at war, we would be in a position to do certain things which we cannot do now consistently with strict neutrality. Furthermore it would give time for consideration as to the advisable steps to be taken afterward for I feel convinced that Germany will not declare war on the breaking off intercourse. As to the suggested warning of Americans, we could do it with propriety if we declare Germany outlaw, something which could not be done as long as we treated her as a friend. It has this disadvantage, which requires very careful consideration and may make it inadvisable, namely, that it will accomplish the very purpose which Germany sought a year ago by keeping American ships and citizens from going to Great Britain and her allies. So that it would result in Germany obtaining by threat of lawless action what she was unable to obtain through friendly negotiation.

The second course has these advantages. It amounts to a frank declaration that an outlaw Government is an enemy of mankind, and will show that the present military oligarchy must be eliminated

⁵⁷ File No. 763.72/3312b.

for the sake of civilization and the future peace of the world. It will influence other neutrals far more than the less vigorous course and will, in my opinion, induce them to follow such action, which I do not think they will do unless they are certain we are willing to go the limit. It will leave us some friends after the war. It will do more to end the war than anything that can be done. It will give this country a prominent place in the peace negotiations which will prevent unjust treatment of the Central Powers and will be decidedly for their interests. It will give tremendous moral weight to the cause of human liberty and the suppression of Absolutism. It will remove all charge of weakness of policy and satisfy, I believe, our own people. (this latter advantage is not of great importance but the benefit of popular support is not to be ignored.)

In brief, these are my views as to the two courses open to us if severance of diplomatic relations takes place.

Faithfully yours,

ROBERT LANSING

227

Message of the President to Congress, February 3, 1917 ⁵⁸

GENTLEMEN OF THE CONGRESS: The Imperial German Government on the thirty-first of January ⁵⁹ announced to this Government and to the governments of the other neutral nations that on and after the first day of February, the present month, it would adopt a policy with regard to the use of submarines against all shipping seeking to pass through certain designated areas of the high seas to which it is clearly my duty to call your attention.

Let me remind the Congress that on the eighteenth of April last, in view of the sinking on the twenty-fourth of March of the cross-channel passenger steamer *Sussex* by a German submarine, without summons or warning, and the consequent loss of the lives of several citizens of the United States who were passengers aboard her, this Government addressed a note to the Imperial German Government in which it made the following declaration:

"If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an

⁵⁸ File No. 763.72/3203a; For. Rel., 1917, supp. 1, p. 109.

⁵⁹ Document 224.

abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether.”⁶⁰

In reply to this declaration the Imperial German Government gave this Government the following assurance:

“The German Government is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, a principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States.

“The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

“But”, it added, “neutrals can not expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it has been violated.”

To this the Government of the United States replied on the 8th of May, accepting, of course, the assurances given, but adding,

“The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government’s note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it can not for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other government affecting the rights of neutrals and noncombatants. Responsibility in such matters is single, not joint; absolute, not relative.”⁶¹

⁶⁰ See document 182.

⁶¹ See document 190.

To this note of the eighth of May the Imperial German Government made no reply.

On the thirty-first of January, the Wednesday of the present week, the German Ambassador handed to the Secretary of State, along with a formal note, a memorandum which contains the following statement:

"The Imperial Government, therefore, does not doubt that the Government of the United States will understand the situation thus forced upon Germany by the Entente-Allies' brutal methods of war and by their determination to destroy the Central Powers, and that the Government of the United States will further realize that the now openly disclosed intentions of the Entente-Allies give back to Germany the freedom of action which she reserved in her note addressed to the Government of the United States on May 4, 1916.

"Under these circumstances Germany will meet the illegal measures of her enemies by forcibly preventing after February 1, 1917, in a zone around Great Britain, France, Italy, and in the Eastern Mediterranean all navigation, that of neutrals included, from and to England and from and to France, etc., etc. All ships met within the zone will be sunk."⁶²

I think that you will agree with me that, in view of this declaration, which suddenly and without prior intimation of any kind deliberately withdraws the solemn assurance given in the Imperial Government's note of the fourth of May, 1916, this Government has no alternative consistent with the dignity and honour of the United States but to take the course which, in its note of the eighteenth of April, 1916, it announced that it would take in the event that the German Government did not declare and effect an abandonment of the methods of submarine warfare which it was then employing and to which it now purposes again to resort.

I have, therefore, directed the Secretary of State to announce to His Excellency the German Ambassador that all diplomatic relations between the United States and the German Empire are severed, and that the American Ambassador at Berlin will immediately be withdrawn; and, in accordance with this decision, to hand to His Excellency his passports.

Notwithstanding this unexpected action of the German Government, this sudden and deeply deplorable renunciation of its assurances, given this Government at one of the most critical moments of tension in the relations of the two governments, I refuse to believe that it is the intention of the German authorities to do in fact what they have warned us they will feel at liberty to do. I cannot bring myself to believe that they will indeed pay no regard to the ancient friendship between their people and our own or to the solemn obliga-

⁶² Document 224.

tions which have been exchanged between them and destroy American ships and take the lives of American citizens in the wilful prosecution of the ruthless naval programme they have announced their intention to adopt. Only actual overt acts on their part can make me believe it even now.

If this inveterate confidence on my part in the sobriety and prudent foresight of their purpose should unhappily prove unfounded; if American ships and American lives should in fact be sacrificed by their naval commanders in heedless contravention of the just and reasonable understandings of international law and the obvious dictates of humanity, I shall take the liberty of coming again before the Congress, to ask that authority be given me to use any means that may be necessary for the protection of our seamen and our people in the prosecution of their peaceful and legitimate errands on the high seas. I can do nothing less. I take it for granted that all neutral governments will take the same course.

We do not desire any hostile conflict with the Imperial German Government. We are the sincere friends of the German people and earnestly desire to remain at peace with the Government which speaks for them. We shall not believe that they are hostile to us unless and until we are obliged to believe it; and we purpose nothing more than the reasonable defense of the undoubted rights of our people. We wish to serve no selfish ends. We seek merely to stand true alike in thought and in action to the immemorial principles of our people which I sought to express in my address to the Senate only two weeks ago,—seek merely to vindicate our right to liberty and justice and an unmolested life. These are the bases of peace, not war. God grant we may not be challenged to defend them by acts of wilful injustice on the part of the Government of Germany!

228

*Memorandum by the Secretary of State*⁶³

The Government cannot give advice to private persons as to whether or not their merchant vessels should sail on voyages to European ports by which they would be compelled to pass through waters delimited in the declaration issued by the German Government on January 31, 1917.

It, however, asserts that the rights of American vessels to traverse all parts of the high seas are the same now as they were prior to the issuance of the German declaration, and that a neutral merchant vessel may, if its owners believe that it is liable to be unlawfully

⁶³ File No. 195.91/274.

attacked, take any necessary measures to prevent or resist such attack.

February 6, 1917.

The foregoing statement, to be communicated to the Departments of War, Navy, Treasury and Commerce in the form of a confidential memorandum for their guidance and as a basis for replies to letters of inquiry to the Department of State, I read over the telephone to the President at 6:45 p.m. February 6, 1917, who authorized its use as above stated.

229

*The Secretary of State to the Swiss Minister (Ritter)*⁶⁴

WASHINGTON, February 12, 1917.

MY DEAR MR. MINISTER: I am requested by the President to say to you, in acknowledging the memorandum which you were kind enough to send me on the 11th instant, that the Government of the United States would gladly discuss with the German Government any questions it might propose for discussion were it to withdraw its proclamation of the 31st of January,⁶⁵ in which, suddenly and without previous intimation of any kind, it canceled the assurances which it had given this Government on the 4th of May last, but that it does not feel that it can enter into any discussion with the German Government concerning the policy of submarine warfare against neutrals which it is now pursuing unless and until the German Government renews its assurances of the 4th of May and acts upon those assurances.

I am [etc.]

ROBERT LANSING

230

*The Secretary of State to the President*⁶⁶

February 14, 1917.

MY DEAR MR. PRESIDENT: I send you a letter which has just been received from the Sun Company, of Philadelphia relative to the arming of their vessels in English ports, with the aid of the British Government. Since the letter was received the Company has telephoned that the British Government is willing to supply the guns, provided our Government does not object.

This raises a new problem in the matter of arming merchant vessels. I would not favor allowing them to receive guns without

⁶⁴ File No. 763.72/3263½; For. Rel., 1917, supp. 1, p. 129.

⁶⁵ Document 224.

⁶⁶ File No. 763.72/3315.

our consent, and, at the same time, I am very doubtful as to whether we should give consent. This is but one additional perplexity to the many which are presented by the existing situation.

I think it would be well if you could arrange to let me see you sometime tomorrow (Thursday) in order that certain of these questions may be answered in accordance with the policy which you have in mind. If you can arrange this will you please let me know by telephone? ⁶⁷

Faithfully yours,

ROBERT LANSING

231

The Secretary of State to the British Ambassador (Spring Rice) ⁶⁸

No. 1485

WASHINGTON, February 19, 1917.

EXCELLENCY: From time to time during the present war, as Your Excellency is aware, the Government of His Britannic Majesty have given notice of certain delimited areas of the high seas, designated as "military areas" or "danger areas," within which merchant shipping of all kinds, fishing craft, and all other vessels, were warned that they would be subject to the gravest dangers from mines laid by His Majesty's Government, and from hostile operations, and that they would enter such waters at their peril.⁶⁹ This matter was referred to in the Department's memorandum of August 13, 1914,⁷⁰ and has been the subject of subsequent correspondence between the American Ambassador at London and the British Foreign Office.

As the question of appropriating certain portions of the high seas for military operations, to the exclusion of the use of the hostile area as a common highway of commerce, has not become a settled principle of international law assented to by the family of nations, it will be recognized that the Government of the United States must, and hereby does, for the protection of American interests, reserve generally all of its rights in the premises, including the right not only to question the validity of these measures, but to present demands and claims in relation to any American interests which may be unlawfully affected, directly or indirectly, by virtue of the enforcement of these measures.

Accept [etc.]

ROBERT LANSING

⁶⁷ The President replied on Feb. 15, 1917 (File No. 763.72/3314½): "I shall be very glad to discuss this delicate matter with you this afternoon at 2.30, if you can come over to the House at that time."

⁶⁸ File No. 763.72/3359a; For. Rel., 1917, supp. 1, p. 519.

⁶⁹ See documents 31 and 221.

⁷⁰ Document 8.

232

*The Secretary of State to the President*⁷¹

February 21, 1917.

MY DEAR MR. PRESIDENT: I enclose a memorandum which I have prepared on the subject of arming merchant vessels, with particular reference to the question of supplying guns and trained men to American vessels visiting the "danger zone." The memorandum also includes a brief reference to the conflict of right, duty and expediency which it seems to me must be considered in determining upon a definite policy.⁷²

Faithfully yours,

ROBERT LANSING

[Enclosure]

Memorandum by the Secretary of State

February 20, 1917.

The arming of merchant vessels of belligerent nationality and the arming of merchant vessels of neutral nationality rest upon two different principles.

A belligerent merchant vessel's right to carry an armament and to employ it in resisting attack by an enemy ship arises primarily from the fact that a merchant vessel and its cargo are under the recognized rules of naval warfare proper prize of an enemy who may seize and confiscate them. As the vessel is not under the direct protection of the armed forces of its government when traversing the high seas, it may rightfully defend itself from seizure and thus attempt to prevent its owner from suffering a total loss by reason of its capture. If the rule as to private property on the high seas was the same as that applicable to private property on land so that it would be immune from confiscation without just indemnity, it is probable that forcible resistance would be declared to be illegal; but as long as the present rule of prize exists the right of defense cannot justly be denied to a belligerent merchant vessel.

A neutral merchant vessel's right to carry and use an armament arises primarily from two facts, first, the defenseless character of a

⁷¹ File No. 763.72/3468½.

⁷² The following note appears on the original, which the President had returned to the Secretary of State on Feb. 22:

"The Pres said to me that I did not include [in] the memo. a course of action. I told him that I had not intended to do so, that I wished to lay before him my conception of the principles involved and the questions which were raised in my mind by the situation, but that the question of right policy lay with him.

R. L. Feb. 22, 1917."

commercial vessel, and second, that, as a rule, there is no protection furnished by a government to its merchant vessels on the high seas against piracy or any other form of lawlessness imperiling human life. It is manifestly impossible for a government to give full protection to its merchant marine in all parts of the globe and, therefore, its merchant vessels are warranted in being prepared against lawless attacks and in resisting lawless assailants. It is the same primitive law of self-defense that justifies an individual in arming and defending himself from a highwayman in a region which is known to be without police protection.

Neutral property on the high seas is by the laws of naval warfare immune from confiscation by a belligerent unless it has through the voluntary act of the owner become tainted with enemy character. Against the exercise of the belligerent right of visit and search to determine the character of its cargo a neutral merchant vessel has no right to resist by force, since if it is engaged in innocent trade it cannot lawfully be seized and confiscated. If, however, a neutral merchant vessel is attacked by methods which ignore the rule of visit and search, the immunity of innocent cargoes, and the safety of human life, it possesses the right of self-defense whether the lawless attack is made by a public or a private ship. The essential element of this right of defense is the duty, as well as the right, to protect human life, the protection of the property being incidental and subordinate to the more important object. As to the loss of innocent neutral property, whether it be vessels or cargoes, there is an adequate remedy through the enforcement by diplomatic or judicial processes of indemnities.

If an illegal attack is made upon a neutral merchant vessel under the direct order of a belligerent government, the primitive right of defense ought not by reason of that fact to be annulled or abridged. To deny the right of resistance in such circumstances would amount to legalizing illegality and to subordinating neutral right of safety to life on the high seas to the arbitrary will of belligerents.

If the orders issued by a belligerent government to its naval vessels are flagrantly in violation of the laws of naval warfare which give protection to the lives of neutrals traversing the high seas in neutral bottoms (not to mention belligerent merchantmen) and if, by notifying neutral governments that "all ships within" a certain portion of the high seas "will be sunk," the threat is made that neutral ships and cargo will be destroyed without regard for the safety of the persons on board the vessels, there would seem to be no valid reason for a neutral government to refuse to allow its merchant vessels to carry armaments and to use them to defend themselves from the lawless attacks threatened. To compel a merchant vessel

to proceed on its voyage without means of defense, when it is notorious that the laws of naval warfare protective of human life will be disregarded by a belligerent, would come near to making the neutral government an accessory in the crime and in any event encourage the offending government to continue with free hand its reprehensible practices. It would seem to be the duty of a neutral government to give full sanction to and to advise its merchant vessels to arm and resist illegal attacks of such nature.

With the right of a neutral merchant vessel to arm and to use its armament to protect the lives of the persons on board if lawlessly attacked, the question arises as to the duty of a neutral government to provide the guns and gun crews necessary to equip its merchant vessels for defense against the announced illegal purposes of a belligerent.

This question viewed from the standpoint of abstract right offers little difficulty as there can be no doubt but that a government should defend, if it is able, its merchant vessels on the high seas from all forms of outlawry and particularly so if the lives of the persons on the vessels are imperilled. The practical means would be to furnish an armament and trained men to man it. Such a course would be based on the same principle as convoy except that the vessel would be subject to the belligerent right of visit and search. However, if a belligerent government gave notice which in effect amounted to a declaration that the right of visit and search would not be exercised, the very presence of a belligerent armed vessel would be a menace to human life, and warrant the use of an armament to ward off attack.

From the standpoint of expediency the question can be less readily answered. A belligerent government having announced its purpose to employ lawless methods of attack against all vessels regardless of nationality or of the safety of the persons on board, might consider resistance by an armament furnished by a neutral government and served by gunners from its navy to be a hostile act amounting to a *casus belli*. It would certainly entail a certain measure of danger of creating a state of war between the neutral and the belligerent.

On the other hand if the purpose of the announced policy of lawlessness is to prevent by threats as well as by force neutral vessels from entering a certain zone on the high seas which they have a right to traverse in safety, the failure to provide arms and trained men for defense would accomplish that purpose, if unarmed vessels should refrain from entering the zone on account of fear of the threats made and especially if they could not obtain an efficient armament from other sources than the government.

Where the duty of a neutral government lies in such circumstances is not entirely clear. The right to aid its merchant vessels to protect the lives of the persons on board while traversing the high seas seems certain, but if the exercise of the right is a menace to the peace of the nation ought the right to be exercised? If refraining from the exercise of the right encourages lawlessness and accomplishes the purpose of the lawbreaker ought it not to be exercised? If the failure to exercise the right increases the peril to human life and prevents neutrals from entering certain portions of the high seas through fear of lawless attacks should the neutral government exercise its right if by so doing it will lessen the peril and remove the fear of travelers?

In dealing with a situation in which a neutral government's obligations are manifestly complex and conflicting it is necessary to have in mind the maintenance of rights, the national honor and prestige, the future consequences of resistance or of non-resistance to lawless acts from the domestic as well as the foreign standpoint, the probability of a state of war resulting in any event, whatever policy is adopted, the effect of a severance of diplomatic relations upon the probable outcome, the expediency of awaiting an actual loss of life before acting, the effect of delay of action upon domestic popular support, the effect of immediate action upon the public mind, the effect of non-action upon the commerce and industry of the neutral, these and other subjects should be carefully considered and weighed before a policy is determined upon.

ROBERT LANSING

233

*The Acting Secretary of State to Diplomatic Officers in All Countries except Liberia and Morocco*⁷³

[Circular telegram]

WASHINGTON, February 26, 1917.

The President today addressed Congress in joint session on the situation resulting from Germany's new submarine policy and requested authority to take such steps as may be necessary for the protection of American life and property at sea. For your information and guidance, the following pertinent portions of the President's address are quoted:

"No one doubts what it is our duty to do. We must defend our commerce and the lives of our people in the midst of the present trying circumstances, with discretion but with clear and steadfast purpose. Only the method and the extent remain to be chosen, upon the

⁷³ File No. 763.72/3394a; For. Rel., 1917, supp. 1, p. 149.

occasion, if occasion should indeed arise. Since it has unhappily proved impossible to safeguard our neutral rights by diplomatic means against the unwarranted infringements they are suffering at the hands of Germany, there may be no recourse but to *armed* neutrality, which we shall know how to maintain and for which there is abundant American precedent.

It is devoutly to be hoped that it will not be necessary to put armed force anywhere in action. The American people do not desire it, and our desire is not different from theirs. I am sure that they will understand the spirit in which I am now acting, the purpose I hold nearest my heart and would wish to exhibit in everything I do. I am anxious that the people of the nations at war also should understand and not mistrust us. I hope that I need give no further proof and assurances than I have already given throughout nearly three years of anxious patience that I am the friend of peace and mean to preserve it for America so long as I am able. I am not now proposing or contemplating war or any steps that need lead to it. I merely request that you will accord me by your own vote and definite bestowal the means and the authority to safeguard in practice the right of a great people who are at peace and who are desirous of exercising none but the rights of peace to follow the pursuits of peace in quietness and good will,—rights recognized time out of mind by all the civilized nations of the world. No course of my choosing or of theirs will lead to war. War can come only by the wilful acts and aggressions of others.

You will understand why I can make no definite proposals or forecasts of action now and must ask for your supporting authority in the most general terms. The form in which action may become necessary cannot yet be foreseen. I believe that the people will be willing to trust me to act with restraint, with prudence, and in the true spirit of amity and good faith that they have themselves displayed throughout these trying months; and it is in that belief that I request that you will authorize me to supply our merchant ships with defensive arms, should that become necessary, and with the means of using them, and to employ any other instrumentalities or methods that may be necessary and adequate to protect our ships and our people in their legitimate and peaceful pursuits on the seas.^{73a} I request also that you will grant me at the same time, along with the powers I ask, a sufficient credit to enable me to provide adequate means of protection where they are lacking, including adequate insurance against the present war risks."

POLK

^{73a} A bill giving the President the authority requested, failed of passage as it did not come to a vote in the Senate prior to the close of the session of Congress, March 4, 1917. On that date the President issued a statement containing the following:

"Although, as a matter of fact, the Nation and the representatives of the Nation stand back of the Executive with unprecedented unanimity and spirit, the impression made abroad will, of course, be that it is not so and that other Governments may act as they please without fear that this Government can do anything at all. We cannot explain. The explanation is incredible. The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action. A little group of willful men, representing no opinion but their own, have rendered the great Government of the United States helpless and contemptible."

234

*The Ambassador in Great Britain (Page) to the Secretary of State*⁷⁴

[Telegram]

LONDON, March 5, 1917—1 p.m.

[Received March 6—3.20 a.m.]

5794. My 5644, February 9, 10 a.m. The financial inquiries made here reveal an international condition most alarming to the American financial and industrial outlook. England is obliged to finance her allies as well as to meet her own war expenses. She has as yet been able to do these tasks out of her own resources. But in addition to these tasks she cannot continue her present large purchases in the United States without shipments of gold to pay for them and she cannot maintain large shipments of gold for two reasons: first, both England and France must retain most of the gold they have to keep their paper money at par; and second, the submarine has made the shipping of gold too hazardous, even if they had it to ship. The almost immediate danger, therefore, is that Franco-American and Anglo-American exchange will be so disturbed that orders by all the Allied Governments will be reduced to the lowest minimum and there will be almost a cessation of transatlantic trade. This will, of course, cause a panic in the United States. The world will be divided into two hemispheres one of which has gold and commodities and the other, which needs these commodities, will have no money to pay for them and practically no commodities of their own to exchange for them. The financial and commercial result will be almost as bad for one as for the other. This condition may soon come suddenly unless action is quickly taken to prevent it. France and England must have a large enough credit in the United States to prevent the collapse of world trade and of the whole of European finance.

If we should go to war with Germany the greatest help we could give the Allies would be such a credit. In that case our Government could, if it would, make a large investment in a Franco-British loan or might guarantee such a loan. All the money would be kept in our own country, trade would be continued and enlarged till the war ends, and after the war, Europe would continue to buy food and would buy from us also an enormous supply of things to reequip her peace industries. We should thus reap the profit of an uninterrupted, perhaps an enlarging, trade over a number of years and we should hold their securities in payment.

⁷⁴ File No. 841.51/40; For. Rel., 1917, supp. 2, p. 516.

But if we hold most of the money and Europe cannot pay for re-equipment there may be a world-wide panic for an indefinite period.

Unless we go to war with Germany our Government of course cannot make such a direct grant of credit, but is there no way in which our Government might indirectly, immediately, help the establishment in the United States of a large Franco-British credit without a violation of armed neutrality? I am not sufficiently acquainted with our own reserve bank law to form an opinion, but if these banks were able to establish such a credit, they would avert this danger. It is a danger for us more real and imminent, I think, than the public on either side the ocean realizes. If it be not averted before its symptoms become apparent it will then be too late to avert it. I think that the pressure of this approaching crisis has gone beyond the ability of the Morgan Financial Agency for the British and French Governments. The need is becoming too great and urgent for any private agency to meet, for every such agency has to encounter jealousies of rivals and of sections.

Perhaps our going to war is the only way in which our present preeminent trade position can be maintained and a panic averted. The submarine has added the last item to the danger of a financial world crash. During a period of uncertainty about our being drawn into the war, no more considerable credit can be privately placed in the United States and a collapse may come in the meantime.

PAGE

235

*The Secretary of State to the President*⁷⁵

March 6, 1917.

MY DEAR MR. PRESIDENT: AS I told you this afternoon I have been studying the statute of 1819 (now Section 4295 of the Revised Statutes, copy enclosed) which has been suggested as a possible restriction upon the arming of merchant vessels proceeding to the German "danger zone", and I am firmly convinced that it in no way restricts the power to arm against submarine attacks or affects the status of the vessel so armed.

In analyzing the statute I find the following reasons which are more or less technical for its not being applicable to the pending question:

1st. In excepting an armed public ship from attack by a merchant vessel, the ship excepted is that "of some nation in amity with the United States". It is significant that the customary words

⁷⁵ File No. 763.72/3468½a.

"peace and amity" are not used, only the word "amity". I would define "amity" to be "in friendly relations with". When diplomatic relations have been severed I do not think that it can be said that "friendly relations" exist or a state of "amity" exists. We are still at peace but not in amity with Germany.

2d. The law applies to "the commander and crew" of a merchant vessel. It would not apply to arms or an armed guard put on board such vessel by the Government, if that policy is determined upon.

3d. The statute is clearly *an enabling act* and *not a prohibiting act*. That is, it defines what a merchant vessel may do in case of aggression by a foreign private vessel, but it does not prohibit it from any act in relation to a foreign public ship. If it had a right to resist lawless conduct by a public ship prior to the passage of the statute, that right remained unimpaired.

4th. The act being without any provision for a penalty is effective and could not be enforced even if it could be construed as prohibitive. The absence of a penalty clause seems conclusive evidence that it is an enabling act and permissive in nature. If it was prohibitive there would be a penalty fixed.

Furthermore the statute when incorporated in the Revised Statutes was placed under the title of "piracy" and pertained, I assume, to the right to resist pirates. I do not consider that submarines can be so classed although their acts might be considered piratical. It is another form of lawlessness endangering life which is involved and to which the statute in question in no way applies. While a cursory reading of the provisions might raise a doubt as to the right of armed defense against a public ship, a study of the terms and purpose of the statute removes the doubt as entirely inapplicable to an illegal submarine attack.

In view, however, of the fact that the section of the Revised Statutes falls under the title of Piracy it is possible that private citizens may hesitate to arm their merchant vessels. It would not be at all unnatural if there was a measure of hesitancy.

There are two ways to meet this state of affairs: *First*, to issue a public statement declaring that the statute of 1819 does not apply to present conditions and that a merchant vessel has the right to arm and resist illegal attacks by submarines. *Second*, for the Government to furnish guns and gun crews to merchant vessels sailing for the German "danger zone", which would remove any doubt of violation of a statute.

The first way has the disadvantage of placing the guns under the control of the master of a merchant vessel, who might not act with the discretion of a naval officer in using them. Furthermore, as the guns and ammunition can only be obtained from the Navy Department, the furnishing of the armament would appear to give official

authorization to the merchant vessel to use it, and in no way relieve the Government of responsibility for its use.

The second way has the advantage of placing the armament under the control of naval gunners who could be given explicit orders as to its use. It would undoubtedly be far more efficient to have the guns handled in this way than under the direction of an inexperienced commander of a merchantman.

As to the propriety of furnishing naval guns and naval gunners to merchant vessels I have no doubt. On February 10, 1916, the German Government declared that it would consider armed merchant vessels to be public warships and not entitled to the treatment of private vessels of commerce. In view of this declaration I cannot see that it will give Germany any greater justification for lawless attack if the guns are directly operated by order of the Government than she would have if the ship's crew handled the armament under the captain's orders. It might be well, if it is decided to use naval guns and naval gunners, to direct particular attention to the German declaration.

As I pointed out in a memorandum submitted to you on February 22d, the employment of naval guns and gun crews would be in the nature of an armed guard to protect American lives, and would be based on the general principle of convoy, though differing in this, that the guard being on the vessel the belligerent right of visit and search would not be waived. In the present case, however, the German Government has announced its intention not to exercise the right and to sink all vessels on sight, so that a government armed vessel would have the indubitable right to use its armament on the approach of a German submarine. As the purpose of the arming would be to protect life and not the cargo I do not see that the presence of contraband on board would affect the case. If the German submarines visited and searched the vessels the use of an armament by a vessel with or without contraband would be unjustified, but the declaration of a purpose not to observe the law, thereby imperiling life, removes any responsibility of the vessel to surrender or of the Government, which has armed it, to guaranty the innocent character of the cargo.

It seems to me that there is no more impropriety in placing armed guards on an American merchant vessel to preserve the lives of the persons on board than there is to land guns and blue jackets to protect the lives of American citizens on foreign soil when they are in danger of lawless attack. I do not know but the present case is even stronger because the sea is common to all nations and not subject to the sovereignty of any one nation. In fact the legal fiction that "an American vessel is American territory" might be applied.

In that case the resistance of lawless acts would be like guarding the border from outlaws.

My own belief is that we would be in a stronger and more defensible position legally and accomplish better results if we frankly declared it to be our duty to place on every American merchant vessel sailing for the "danger zone" a naval guard with an armament sufficient to protect it from submarine attack, and that this practice would be followed regardless of the character of the cargo so long as the German Government menaced American lives by declining to exercise the right of visit and search and by attacking indiscriminately all vessels without regard to the safety of the persons on board.

Faithfully yours,

ROBERT LANSING

[Enclosure]

CH. 8. SEC. 4295. The commander and crew of any merchant vessel of the United States, owned wholly, or in part, by a citizen thereof, may oppose and defend against any aggression, search, restraint, depredation or seizure, which shall be attempted upon such vessel, or upon any other vessel so owned, by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States, and may subdue and capture the same; and may also retake any vessel so owned which may have been captured by the commander or crew of any such armed vessel, and send the same into any port of the United States.

236

*Press Statement by the Federal Reserve Board, March 8, 1917*⁷⁶

INVESTMENTS IN FOREIGN LOANS

From statements which have been published from time to time, both in the American and foreign press, there appears to be a misunderstanding of the attitude of the Federal Reserve Board with respect to investments in foreign loans in the United States. On more than one occasion the Board has endeavored to remove this misunderstanding. So far from objecting to the placing of foreign loans in the American market, it regards them as a very important, natural, and proper means of settling the balances created in our favor by our large export trade. There are times when such loans should be encouraged as an essential means of maintaining and protecting our foreign trade.

The Board has already stated that its announcement of November 28, 1916, did not deal with the finances or the credit of any particular

⁷⁶ *Federal Reserve Bulletin*, April 1917, p. 239.

country, but only with banking principles which it seemed desirable to emphasize under the conditions existing at that time. The objection then made by the Board was to the undue employment by our banks of their funds in the purchase of foreign loans and not to the merits of foreign loans as investments. The Board was then, and is now, of the opinion that the liquid condition of our banks should not be impaired through undue or unwise use of their resources for investment operations. The position of the Board with respect to this principle has not changed. It still takes the view that foreign borrowings should appeal primarily to the investor and not involve the use of banking resources beyond the limits of sound practice. In view, however, of existing conditions, especially as they affect our foreign trade, the Board deems it desirable and in the public interest to remove any misconception that may be left in the minds of those who read the statement issued on the 28th of November, 1916. Since that date the country's gold reserve has been further materially strengthened and supplies a broad basis for additional credit. The Board considers that banks may perform a useful service in facilitating the distribution of investments, and in carrying out this process they may, with advantage, invest a reasonable amount of their resources in foreign securities. So long as this does not lead to an excessive tying up of funds and does not interfere with the liquid condition of the banks, there can not be any objection to this course.

The Board did not, of course, undertake to give advice concerning any particular loan. It desires, however, to make clear that it did not seek to create an unfavorable attitude on the part of American investors toward desirable foreign securities, and to emphasize the point that American funds available for investment may, with advantage to the country's foreign trade and the domestic economic situation, be employed in the purchase of such securities.

237

*The Secretary of State to the President*⁷⁷

March 8, 1917.

MY DEAR MR. PRESIDENT: I know that you are giving constant and anxious thought to the course of action we should take in regard to arming merchant vessels, but I feel it my duty to express to you my personal views on the subject knowing that you will understand my motives in doing so.

It seems to me that we must proceed upon one of two hypotheses and should regulate our policy accordingly. These hypotheses are

⁷⁷ File No. 763.72/3469½a.

that we will ultimately be at war with Germany or that we will continue the present state of unfriendly peace.

As to the second hypothesis I can see no satisfactory outcome. Suppose we continue as we are, then Germany will have gained all she seeks by preventing American vessels from visiting the waters of the "danger zone" and meanwhile our people will become more and more incensed at German activities and intrigues until they turn against our own Government for failure to act under the greatest provocation. If delay in action is in the expectation or hope that Germany will declare war upon this country and relieve us of that grave responsibility, I am convinced that both expectation and hope will be vain unless we do something very definite which may be interpreted to be a *casus belli*. I think the German Government will be entirely satisfied to let the present situation continue and will do everything possible to avoid hostilities, feeling that by so doing this Government will be seriously embarrassed and placed in a very undesirable position before the American people. But can we afford to let matters stand as they are? If we do, what possibility is there for an improvement in conditions by continued inaction? I confess that I can see nothing to gain by a continuance of this situation so satisfactory to Germany and so unsatisfactory to us. I have considered the matter very carefully and endeavored to construct some result which will warrant a continuance, but I have failed.

Feeling the present state of affairs is hopeless for ultimate peace and being convinced of the impossibility of founding a policy on the hypothesis that we can remain at peace, it seems to me that we ought to proceed on the theory that we will in a short time be openly at war with Germany. If we assume that hypothesis our course is largely a matter of expediency taking chiefly into account what actions will appeal most strongly to the sense of justice and right of the American people and will most firmly unite them in support of the Government. I think that to be of first consideration at the present time.

My own belief is that prompt and vigorous action will do more than anything else to crystalize public support and unite the people behind the Government. As I read the public mind there is an impatient desire to go forward. The people will follow readily and whole-heartedly if a policy of action is adopted and pressed with vigor. I am firmly convinced that expediency as well as duty lies in action.

In view of the conclusion, which I have reached—and reached reluctantly in view of the great issue at stake—I think that our merchant vessels should be sent out under armed guards, that an-

nouncement of this policy should be made immediately and the guns and men placed on the vessels as soon as possible.

I would not advise this course if I could see any possible benefit from delay, but I do not. On the contrary I think that delay is causing a wrong impression of the Government among the people, which, in view of the certainty of war at no distant day, ought to be avoided.

It is with hesitation I have written this letter, because I know that you are devoting your time to this greatest question of your Administration, but I felt that I would be derelict in my duty not to state frankly my views to you.

Faithfully yours,

ROBERT LANSING

238

*The Secretary of the Navy (Daniels) to the President*⁷⁸

WASHINGTON, *March 9, 1917.*

DEAR MR. PRESIDENT: Admiral Benson went over to New York last night to confer with Admiral Usher, Mr. Franklin and others looking to carrying out the policy desired. The important question now seems to be which is the best policy to be adopted to carry into effect the arming of ships. There were three different methods outlined in the memorandum submitted to you yesterday. Briefly summarized, they are:

Policy No. 1

Replies to the German threat to sink neutral vessels in designated zones of the high seas by assuming all German submarines on the high seas are attacking United States vessels and that merchant vessels of the United States consequently may fire upon German submarines wherever they are met on the high seas.

Policy No. 2

Replies to the German threat to sink neutral vessels in designated zones of the high seas by assuming that all German submarines within those zones are attacking U. S. vessels and that consequently merchant vessels of the United States may fire upon German submarines wherever they are met within those zones, but that merchant vessels must grant to German submarines the right of visit and search in all other areas of the high seas.

Policy No. 3

Replies to the German threat to sink neutral vessels in designated zones of the high seas by continuing to recognize the rights of German submarines to visit and search American merchant vessels, but au-

⁷⁸ File No. 763.72/3470½.

thorizes those vessels to resist by force certain named unlawful acts of submarines.

I am enclosing redrafted copies of the memorandum submitted to you yesterday giving in detail the three separate policies suggested. Policy No. one denies the right of German submarines to search and seizure, and if ships carrying contraband are to have guns and naval crews on board will it not be necessary to deny search and seizure? Otherwise, practically no goods could be transported and the orders from abroad could not be filled. Would not this practically tie up American ships from going through the barred zone? To be sure this would deny the belligerent right of Germany to visit and search anywhere on the high seas. This would, of course, be a departure from international law and usage. Germany and the world might say that, demanding observance of international law, we had ourselves failed to observe it. Of course, our answer would be that Germany's note that it would sink without warning justified our action. This would be sufficient answer, undoubtedly, if in your message to Congress you had not expressed the doubt that Germany would be guilty of that unprecedented act. I am calling your attention to what is involved in Policy No. 1 before you determine upon which course should be pursued.

Admiral Benson is strongly of the opinion that the first thing to be done would be to notify Germany that, in view of the declaration that she intends to sink our ships without warning in a certain zone, it is our purpose to arm our ships for protection. He believes if this information is imparted it is barely possible that Germany might not carry out her threat. If we deny the right of visit, Germany would declare that to be a warlike act, and that we were responsible for bringing on war. It is entirely probable that the next step would be war. If we must enter it to protect our rights and the lives of our people, I have felt we ought to do nothing to put the responsibility for this step upon our Government.

Last night I conferred with Admiral Palmer about the crews to man the guns. He has taken action, and sends this note which I thought you would like to read. It is as follows:

Confidential

March 9, 1917.

From: Bureau of Navigation.

To: Operations.

Subject: Arming merchant vessels with Naval gun crews and a Naval officer.

Before any action is taken the Secretary should know that the presence of U. S. sailors (and an officer) on merchant ships will probably be considered an act of war from the German viewpoint.

That it is most probable that a German submarine, knowing an American merchant vessel is armed, and has armed forces of the U. S. on board, for the definite and sole purpose of resisting attack of submarines, will attack without warning.

That the master of the merchant vessel and the Naval officer will believe the German submarine will attack without warning, and therefore, for the safety of the vessel, passengers, U. S. sailors and crew, they will fire at the submarine on sight.

The Secretary should be fully informed on this subject before final steps are taken to place 50 U. S. sailors and officers on armed merchant vessels.

(Signed) Leigh C. Palmer.

Admiral Benson is to telephone me how soon ships could leave and whether action can be taken without publicity. My own opinion is that it would be impossible to take the action without our own people knowing it for these reasons:

1. Passengers would not go on these ships unless they knew they were armed and had competent gun crews. Their families and friends would know they were going and publicity would be certain.
2. Shippers and all their employees would be busy loading the cargo, and this could not be kept secret.
3. The sending of the gun crew—40 or 50 on the larger ships—would be known on the ships or stations from which they are taken, and experience has shown how impossible such movements are to be confined to service channels.

The question arises, too, whether it would not be wisest to state that you had reached the conclusion that you had a right to arm the ships and would do so, making no statement as to the time or the method. I cannot resist the feeling that this would be the best course and meet public approval. If Germany wants war, she will try to sink in any event. If she wishes to avert war with us, there would be time to modify her orders to Naval commanders so they would not commit the overt act.

Admiral Benson will return this afternoon and I will send you tonight or tomorrow morning a statement from him after his talk with Mr. Franklin. It will take five days, after notice that ships are to be armed, for one to sail, and until I hear from you I will give no orders to arm them, but will have guns and crews ready for immediate action.

I suggest whether, when we undertake to arm the ships, it will not be necessary to secure some co-operation with the English or French to whose shores the ships are destined. The information comes to us that when a ship leaves New York, its route and time of arrival are cabled to the Admiralty and it is met and convoyed into port by destroyers or other craft through a lane traversed all the time by Naval craft. Suppose we send out an armed merchant ship, ought we not

to secure some such convoy or protection when she nears port in the barred zone? This is a big question but is one that we probably must face. The English also on this side know when a ship is coming into an American port and keep ships over here to afford protection. Certain French and English Naval officers here have suggested to officers in our service that some character of co-operation would be necessary. Naturally they would expect us to patrol and convoy their ships coming into our ports if they protect and convoy our ships going into their ports. Such co-operation would be easy if we were at war with Germany, but as we are not at war, would not such co-operation make us regarded as an ally of the entente powers? The protection of our ships and their reaching ports in safety raises so many difficult questions, and the consequences are so grave, that I am trying to present them to you before the final order to arm is given, though, of course, they have been present in your mind during the whole controversy.

Sincerely yours,

JOSEPHUS DANIELS

239

*The Secretary of State to the President*⁷⁰

March 9, 1917.

MY DEAR MR. PRESIDENT: I return herewith the papers from the Navy Department in regard to the arming of merchant vessels, which Mrs. Wilson was good enough to send me this afternoon.

As you know from my letters of the 6th and 8th I strongly advocate placing an "armed guard" on an American merchant vessel proceeding to the German "danger zone". I think that that policy would remove all question of constitutional right and executive power. It appears from the papers submitted that this method has not been considered in the three policies suggested by Secretary Daniels on which the three sets of regulations are based. It would seem, however, that they could readily be adapted to such a change.

After going over the policies stated and the regulations proposed I think that Policy No. 2 is the best from a legal standpoint, although it does not cover cases of illegal attack, outside the zone. It is evident that to permit the people on board of a vessel to be placed in open boats at so great a distance from land as they would be if captured outside the zone would as seriously imperil their lives as if attacked without visit within the zone. I think it best to adopt Policy No. 2, with instructions allowing the armed guard to resist

⁷⁰ File No. 763.72/3470½.

illegal attack outside the zone. In no circumstances would I favor No. 3.

In regard to the Regulations (or if issued to an armed Guard, Instructions) I do not feel competent to pass judgment upon them, but believe that with a definite policy adopted they can be worked out by the naval experts so as to be efficient and consistent with the policy. I think that it would be well to omit such positive statements as Regulation No. 2 (page 2). They would only serve to cause controversy. In Regulation No. 4 (page 3) I have also indicated a little more latitude to the armed guard.

I agree with Secretary Daniels that it is not practicable to proceed with this matter secretly, furthermore I do not think that it is politic to do so. My own view is that a public statement of the policy should be made very soon, tomorrow morning if possible, but the regulations (or instructions) should remain secret for the present. I enclose a suggestion for a public statement. In no event would I indicate that we had any choice of policies or that the protection is to be limited to the barred zones.

It is with very real gratification that I learn of your determination to adopt this course. It is so consistent with all you have said and so entirely right that I know it will meet with the approval of the American people.

Faithfully yours,

ROBERT LANSING

240

*The Department of State to the Argentine Embassy*⁸⁰

The Department of State has the honor to state for the information of the Argentine Embassy that in view of the announcement of the Imperial German Government on January 31, 1917,⁸¹ that all ships, those of neutrals included, met within certain zones of the high seas, would be sunk without any precautions being taken for the safety of the persons on board, and without the exercise of visit and search, the Government of the United States has determined to place upon all American merchant vessels sailing through the barred areas an armed guard for the protection of the vessels and the lives of the persons on board.

WASHINGTON, *March 12, 1917.*

⁸⁰ File No. 763.72/3541a; For. Rel., 1917, supp. 1, p. 171.

The same, *mutatis mutandis*, on the same date, to all foreign embassies and legations at Washington.

⁸¹ Document 224.

*Regulations Governing the Conduct of American Merchant Vessels
on Which Armed Guards Have Been Placed*⁸²

1. Armed Guards on American merchant vessels are for the sole purpose of defense against the unlawful acts of the submarines of Germany or of any nation following the policy announced by Germany in her note of January 31, 1917. Neither the Armed Guards nor their arms can be used for any other purpose.

2. The announced policy of Germany, in her note of January 31, 1917, to sink all vessels that enter certain areas of the high seas, has led the Government of the United States to authorize Armed Guards on merchant vessels to resist any and all attempts of the submarines of Germany or of any nation following the policy announced by Germany in her note of January 31st, to put that policy into practice.

3. It shall be lawful for the Armed Guard on any American merchant vessel to fire upon any submarine of Germany or of any nation following the policy of Germany announced in her note of January 31, 1917, that attempts to approach, or lies within 4,000 yards of the commercial route of the vessel sighting the submarine, if the submarine is sighted within the zone proscribed by Germany.

4. No Armed Guard on any American merchant vessel shall fire at any submarine that lies more than 4,000 yards from the commercial route of the vessel sighting the submarine, except that the submarine shall have fired first.

5. No Armed Guard on any American merchant vessel shall take any offensive action against any submarine of Germany or of any nation following the policy of Germany announced in her note of January 31, 1917, on the high seas outside of the zones proscribed by Germany, unless the submarine is guilty of an unlawful act that jeopardizes the vessel, her passengers, or crew, or unless the submarine is submerged.

6. No Armed Guard on an American merchant vessel shall attack a submarine that is retiring or attempting to retire either within or without the zone proscribed by Germany, unless it may be reasonably presumed to be manoeuvring for renewal of attack.

7. In all cases not herein specifically excepted the Armed Guard on American merchant vessels shall be governed by the principles of established international law and the treaties and conventions to which the Government of the United States is a party.

⁸² File No. 763.72/3576¾.

8. American merchant vessels are forbidden to pursue or search out the submarines of any nation or to engage in any aggressive warfare against them.

9. American merchant vessels shall make every effort compatible with the safety of the merchant vessel to save the lives of the crew of any submarine that may be sunk, or that submits, or is in distress.

10. American merchant vessels shall make every effort to avoid the submarines of Germany and of any nation following the policy of Germany announced in her note of January 31, 1917, while in the zones proscribed by Germany.

11. American merchant vessels shall display the American colors continuously at sea.

12. American merchant vessels should communicate with the Commandant of the Naval District before leaving a United States port to make sure of the latest information.

13. The safety of American merchant vessels requires that they obey all instructions of vessels of war of the United States.

ON SIGHTING A SUBMARINE IN THE PROSCRIBED ZONES

14. If a submarine is sighted beyond torpedo range, bring submarine abaft the beam and keep her there. If submarine attempts to close, bring her astern and proceed at highest possible speed.

15. If submarine is sighted close aboard forward of the beam, the greatest safety lies in changing course directly toward the submarine.

16. If submarine is sighted close aboard abaft the beam, the greatest safety lies in turning away from the submarine and proceeding at highest speed.

ON OPENING FIRE IN DEFENSE AGAINST THE UNLAWFUL ACTS OF SUBMARINES

17. Hoist national colors before first shot is fired.

18. Once it has been decided to open fire, do not submit to the gun fire of a submarine so long as the armed guard can continue to fire.

19. Send all persons except bridge force and the armed guard below decks while vessel is under fire.

20. Watch out for torpedoes and maneuver to avoid them. If unable to avoid them, maneuver so that they will strike a glancing blow.

THE ARMED GUARD

21. The Armed Guard is commanded by the Senior Naval Officer on board. He shall have exclusive control over the military functions of the Armed Guard and shall be responsible for the execution

of all the regulations given herein governing the employment of the Armed Guard.

22. The military discipline of the Armed Guard shall be administered by the naval officer commanding the Armed Guard.

23. The Armed Guard shall be subject to the orders of the Master of the merchant vessel as to matters of non-military character, but the members of the Armed Guard shall not be required to perform any ship duties except their military duty, and these shall be performed invariably under the direction of the officer commanding the Armed Guard.

24. The decision as to opening fire or ceasing fire upon any submarine shall reside exclusively with the naval officer commanding the Armed Guard.

25. The enlisted personnel of the Armed Guard shall be quartered and messed together on board both in port and at sea, at the expense of the owners of the vessel, on which the Armed Guard is serving, in a manner satisfactory to the naval officer commanding the Armed Guard.

26. The naval officer commanding the Armed Guard shall take precedence next after the Master, except that he shall not be eligible for succession to the command of the ship. He shall be quartered and messed on board both at sea and in port, at the expense of the owners of the vessel on which he is serving, and in a manner appropriate to his precedence next after the Master.

27. The Master of the merchant vessel shall, on request of the commander of the Armed Guard, detail members of the crew to handle ammunition, clear decks, and otherwise supplement the service of the gun.

28. The naval officer commanding the Armed Guard shall be responsible for:—

- (a) The condition of the battery and its appurtenances.
- (b) The training of the guns' crews and spotters including members of the ship's force detailed by the Master to assist in the service of the guns.
- (c) The readiness of the ship's battery at night.
- (d) The readiness of the Armed Guard to perform its duties at all times.
- (e) The continuous lookout near each gun by a member of the Armed Guard.
- (f) The making of all reports required by the Navy Department.

March 13, 1917.

JOSEPHUS DANIELS
Secretary of the Navy

*The Secretary of State to the President*⁸³

March 19, 1917.

MY DEAR MR. PRESIDENT: After considering carefully our conversation this morning I wish to say that I am in entire agreement with you that the recent attacks by submarines on American vessels do not materially affect the international situation so far as constituting a reason for declaring that a state of war exists between this country and Germany. I think that these incidents, however, show very plainly that the German Government intends to carry out its announced policy without regard to consequences and to make no exception in the case of American vessels. It will, therefore, be only a question of time before we are forced to recognize these outrages as hostile acts which will amount to an announcement that a state of war exists.

I firmly believe that war will come within a short time whatever we may do, because the German Government seems to be relentless in pursuing its methods of warfare against neutral ships. It will not be many days, if past experience indicates the future, before an engagement will take place between one of our guarded steamships and a submarine. Whether that event will cause Germany to declare war or will cause us to recognize a state of war I do not know, but I do not think that we can successfully maintain the fiction that peace exists.

With the conviction that war is bound to come—and I have come to this conviction with the greatest reluctance and with an earnest desire to avoid it—the question seems to me to be whether or not the greatest good will be accomplished by waiting until some other events have taken place before we enter the conflict, or by entering now.

The advantage of delay would seem to be that in some future submarine attack on an American vessel the armed guard would with gun fire sink or drive off the submarine and by so doing induce the German Government to declare war upon us. If there is any other advantage I have been unable to imagine it. I am also convinced in my own mind that the German Government will not declare war in any circumstances. Why should it? It will prefer to continue to wage war on us, as it is today, and at the same time keep our hands tied by our admitted neutrality. It can do every-

⁸³ File No. 763.72/3577½a.

thing practical to injure us and prevent us from doing many things to injure Germany. It would seem most unreasonable to expect the German Government to increase its difficulties by declaring the United States an enemy.

The advantages of our immediate participation in the war appear to me to [be] based largely upon the premise that war is inevitable. Of course if that premise is wrong what I say is open to question. I should add two other premises, the truth of which seem to me well established. They are that the Entente Allies represent the principle of Democracy, and the Central Powers, the principle of Autocracy, and that it is for the welfare of mankind and for the establishment of peace in the world that Democracy should succeed.

In the *first* place it would encourage and strengthen the new democratic government of Russia, which we ought to encourage and with which we ought to sympathize. If we delay, conditions may change and the opportune moment when our friendship would be useful may be lost. I believe that the Russian Government founded on its hatred of absolutism and therefore of the German Government would be materially benefitted by feeling that this republic was arrayed against the same enemy of liberalism.

In the *second* place it would put heart into the democratic element in Germany, who are already beginning to speak boldly and show their teeth at their rulers. Possibly delay would not affect to a very great degree the movement, but I believe it would hasten the time when the German people assert themselves and repudiate the military oligarchy in control of the Empire.

In the *third* place it would give moral support to the Entente Powers already encouraged by recent military successes and add to the discouragement of the Teutonic Allies, which would result in the advancement of Democracy and in shortening the war. The present seems to be an especially propitious time to exert this influence on the conflict.

In the *fourth* place the American people, feeling, I am sure, that war is bound to come, are becoming restive and bitterly critical of what they believe to be an attempt to avoid the unavoidable. If there is a possibility of keeping out of the war, this attitude of the public mind would affect me not at all, but convinced as I am that we will in spite of all we may do become participants, I can see no object in adopting a course which will deprive us of a certain measure of enthusiastic support which speedy action will bring.

In the *fifth* place I believe that our future influence in world affairs, in which we can no longer refuse to play our part, will be materially increased by prompt, vigorous and definite action in favor of Democracy and against Absolutism. This would be first shown in the peace negotiations and in the general readjustment of international relations. It is my belief that the longer we delay in declaring against the military absolutism which menaces the rule of liberty and justice in the world, so much the less will be our influence in the days when Germany will need a merciful and unselfish foe.

I have written my views with great frankness, as I am sure you would wish me to do, and I trust that you will understand my views are in no way influenced by any bitterness of feeling toward Germany or by any conscious emotion awakened by recent events. I have tried to view the situation coldly, dispassionately and justly.

Faithfully yours,

ROBERT LANSING

243

*Message of the President to Congress, April 2, 1917*⁸⁴

GENTLEMEN OF THE CONGRESS: I have called the Congress into extraordinary session because there are serious, very serious, choices of policy to be made, and made immediately, which it was neither right nor constitutionally permissible that I should assume the responsibility of making.

On the third of February last⁸⁵ I officially laid before you the extraordinary announcement of the Imperial German Government that on and after the first day of February it was its purpose to put aside all restraints of law or of humanity and use its submarines to sink every vessel that sought to approach either the ports of Great Britain and Ireland or the western coasts of Europe or any of the ports controlled by the enemies of Germany within the Mediterranean. That had seemed to be the object of the German submarine warfare earlier in the war, but since April of last year the Imperial Government had somewhat restrained the commanders of its under-sea craft in conformity with its promise then given to us that passenger boats should not be sunk and that due warning would be given to all other vessels which its submarines might seek to destroy, when no resistance was offered or escape attempted, and care taken that their crews were given at least a fair chance to save their lives in their open boats. The precautions taken were meagre and haphazard enough, as was proved in distressing instance after instance in the progress of the cruel and unmanly business, but a certain degree of restraint was observed. The new policy has swept every restriction aside. Vessels of every kind, whatever their flag, their character, their cargo, their destination, their errand, have been ruthlessly sent to the bottom without warning and without thought of help or mercy for those on board, the vessels of friendly neutrals along with those of belligerents. Even hospital ships and ships carrying relief to the sorely bereaved and stricken people of Belgium,

⁸⁴ Reprinted from the *Congressional Record*, 65th Cong., 1st sess. (vol. LV), p. 102.

⁸⁵ See document 227.

though the latter were provided with safe conduct through the proscribed areas by the German Government itself and were distinguished by unmistakable marks of identity, have been sunk with the same reckless lack of compassion or of principle.

I was for a little while unable to believe that such things would in fact be done by any government that had hitherto subscribed to the humane practices of civilized nations. International law had its origin in the attempt to set up some law which would be respected and observed upon the seas, where no nation had right of dominion and where lay the free highways of the world. By painful stage after stage has that law been built up, with meagre enough results, indeed, after all was accomplished that could be accomplished, but always with a clear view, at least, of what the heart and conscience of mankind demanded. This minimum of right the German Government has swept aside under the plea of retaliation and necessity and because it had no weapons which it could use at sea except these which it is impossible to employ as it is employing them without throwing to the winds all scruples of humanity or of respect for the understandings that were supposed to underlie the intercourse of the world. I am not now thinking of the loss of property involved, immense and serious as that is, but only of the wanton and wholesale destruction of the lives of noncombatants, men, women, and children, engaged in pursuits which have always, even in the darkest periods of modern history, been deemed innocent and legitimate. Property can be paid for; the lives of peaceful and innocent people cannot be. The present German submarine warfare against commerce is a warfare against mankind.

It is a war against all nations. American ships have been sunk, American lives taken, in ways which it has stirred us very deeply to learn of, but the ships and people of other neutral and friendly nations have been sunk and overwhelmed in the waters in the same way. There has been no discrimination. The challenge is to all mankind. Each nation must decide for itself how it will meet it. The choice we make for ourselves must be made with a moderation of counsel and a temperateness of judgment befitting our character and our motives as a nation. We must put excited feeling away. Our motive will not be revenge or the victorious assertion of the physical might of the nation, but only the vindication of right, of human right, of which we are only a single champion.

When I addressed the Congress on the twenty-sixth of February last ⁸⁶ I thought that it would suffice to assert our neutral rights

⁸⁶ See document 233.

with arms, our right to use the seas against unlawful interference, our right to keep our people safe against unlawful violence. But armed neutrality, it now appears, is impracticable. Because submarines are in effect outlaws when used as the German submarines have been used against merchant shipping, it is impossible to defend ships against their attacks as the law of nations has assumed that merchantmen would defend themselves against privateers or cruisers, visible craft giving chase upon the open sea. It is common prudence in such circumstances, grim necessity indeed, to endeavour to destroy them before they have shown their own intention. They must be dealt with upon sight, if dealt with at all. The German Government denies the right of neutrals to use arms at all within the areas of the sea which it has proscribed, even in the defense of rights which no modern publicist has ever before questioned their right to defend. The intimation is conveyed that the armed guards which we have placed on our merchant ships will be treated as beyond the pale of law and subject to be dealt with as pirates would be. Armed neutrality is ineffectual enough at best; in such circumstances and in the face of such pretensions it is worse than ineffectual: it is likely only to produce what it was meant to prevent; it is practically certain to draw us into the war without either the rights or the effectiveness of belligerents. There is one choice we cannot make, we are incapable of making: we will not choose the path of submission and suffer the most sacred rights of our nation and our people to be ignored or violated. The wrongs against which we now array ourselves are no common wrongs; they cut to the very roots of human life.

With a profound sense of the solemn and even tragical character of the step I am taking and of the grave responsibilities which it involves, but in unhesitating obedience to what I deem my constitutional duty, I advise that the Congress declare the recent course of the Imperial German Government to be in fact nothing less than war against the government and people of the United States; that it formally accept the status of belligerent which has thus been thrust upon it; and that it take immediate steps not only to put the country in a more thorough state of defense but also to exert all its power and employ all its resources to bring the Government of the German Empire to terms and end the war.

What this will involve is clear. It will involve the utmost practicable cooperation in counsel and action with the governments now at war with Germany, and, as incident to that, the extension to those governments of the most liberal financial credits, in order that our resources may so far as possible be added to theirs. It will involve the organization and mobilization of all the material resources of the

country to supply the materials of war and serve the incidental needs of the nation in the most abundant and yet the most economical and efficient way possible. It will involve the immediate full equipment of the navy in all respects but particularly in supplying it with the best means of dealing with the enemy's submarines. It will involve the immediate addition to the armed forces of the United States already provided for by law in case of war at least five hundred thousand men, who should, in my opinion, be chosen upon the principle of universal liability to service, and also the authorization of subsequent additional increments of equal force so soon as they may be needed and can be handled in training. It will involve also, of course, the granting of adequate credits to the Government, sustained, I hope, so far as they can equitably be sustained by the present generation, by well conceived taxation.

I say sustained so far as may be equitable by taxation because it seems to me that it would be most unwise to base the credits which will now be necessary entirely on money borrowed. It is our duty, I most respectfully urge, to protect our people so far as we may against the very serious hardships and evils which would be likely to arise out of the inflation which would be produced by vast loans.

In carrying out the measures by which these things are to be accomplished we should keep constantly in mind the wisdom of interfering as little as possible in our own preparation and in the equipment of our own military forces with the duty,—for it will be a very practical duty,—of supplying the nations already at war with Germany with the materials which they can obtain only from us or by our assistance. They are in the field and we should help them in every way to be effective there.

I shall take the liberty of suggesting, through the several executive departments of the Government, for the consideration of your committees, measures for the accomplishment of the several objects I have mentioned. I hope that it will be your pleasure to deal with them as having been framed after very careful thought by the branch of the Government upon which the responsibility of conducting the war and safeguarding the nation will most directly fall.

While we do these things, these deeply momentous things, let us be very clear, and make very clear to all the world what our motives and our objects are. My own thought has not been driven from its habitual and normal course by the unhappy events of the last two months, and I do not believe that the thought of the nation has been altered or clouded by them. I have exactly the same things in mind now that I had in mind when I addressed the Senate on the twenty-

second of January last;⁸⁷ the same that I had in mind when I addressed the Congress on the third of February and on the twenty-sixth of February. Our object now, as then, is to vindicate the principles of peace and justice in the life of the world as against selfish and autocratic power and to set up amongst the really free and self-governed peoples of the world such a concert of purpose and of action as will henceforth ensure the observance of those principles. Neutrality is no longer feasible or desirable where the peace of the world is involved and the freedom of its peoples, and the menace to that peace and freedom lies in the existence of autocratic governments backed by organized force which is controlled wholly by their will, not by the will of their people. We have seen the last of neutrality in such circumstances. We are at the beginning of an age in which it will be insisted that the same standards of conduct and of responsibility for wrong done shall be observed among nations and their governments that are observed among the individual citizens of civilized states.

We have no quarrel with the German people. We have no feeling towards them but one of sympathy and friendship. It was not upon their impulse that their government acted in entering this war. It was not with their previous knowledge or approval. It was a war determined upon as wars used to be determined upon in the old, unhappy days when peoples were nowhere consulted by their rulers and wars were provoked and waged in the interest of dynasties or of little groups of ambitious men who were accustomed to use their fellow men as pawns and tools. Self-governed nations do not fill their neighbour states with spies or set the course of intrigue to bring about some critical posture of affairs which will give them an opportunity to strike and make conquest. Such designs can be successfully worked out only under cover and where no one has the right to ask questions. Cunningly contrived plans of deception or aggression, carried, it may be, from generation to generation, can be worked out and kept from the light only within the privacy of courts or behind the carefully guarded confidences of a narrow and privileged class. They are happily impossible where public opinion commands and insists upon full information concerning all the nation's affairs.

A steadfast concert for peace can never be maintained except by a partnership of democratic nations. No autocratic government could be trusted to keep faith within it or observe its covenants. It

⁸⁷ See document 219.

must be a league of honour, a partnership of opinion. Intrigue would eat its vitals away; the plottings of inner circles who could plan what they would and render account to no one would be a corruption seated at its very heart. Only free peoples can hold their purpose and their honour steady to a common end and prefer the interests of mankind to any narrow interest of their own.

Does not every American feel that assurance has been added to our hope for the future peace of the world by the wonderful and heartening things that have been happening within the last few weeks in Russia? Russia was known by those who knew it best to have been always in fact democratic at heart, in all the vital habits of her thought, in all the intimate relationships of her people that spoke their natural instinct, their habitual attitude towards life. The autocracy that crowned the summit of her political structure, long as it had stood and terrible as was the reality of its power, was not in fact Russian in origin, character, or purpose; and now it has been shaken off and the great, generous Russian people have been added in all their naive majesty and might to the forces that are fighting for freedom in the world, for justice, and for peace. Here is a fit partner for a League of Honour.

One of the things that has served to convince us that the Prussian autocracy was not and could never be our friend is that from the very outset of the present war it has filled our unsuspecting communities and even our offices of government with spies and set criminal intrigues everywhere afoot against our national unity of counsel, our peace within and without, our industries and our commerce. Indeed it is now evident that its spies were here even before the war began; and it is unhappily not a matter of conjecture but a fact proved in our courts of justice that the intrigues which have more than once come perilously near to disturbing the peace and dislocating the industries of the country have been carried on at the instigation, with the support, and even under the personal direction of official agents of the Imperial Government accredited to the Government of the United States. Even in checking these things and trying to extirpate them we have sought to put the most generous interpretation possible upon them because we knew that their source lay, not in any hostile feeling or purpose of the German people towards us (who were, no doubt as ignorant of them as we ourselves were), but only in the selfish designs of a Government that did what it pleased and told its people nothing. But they have played their part in serving to convince us at last that that Government entertains no real friendship for us and means to act against our peace and security at its convenience. That it means to stir up enemies

against us at our very doors the intercepted note to the German Minister at Mexico City is eloquent evidence.

We are accepting this challenge of hostile purpose because we know that in such a government, following such methods, we can never have a friend; and that in the presence of its organized power, always lying in wait to accomplish we know not what purpose, there can be no assured security for the democratic governments of the world. We are now about to accept gauge of battle with this natural foe to liberty and shall, if necessary, spend the whole force of the nation to check and nullify its pretensions and its power. We are glad, now that we see the facts with no veil of false pretence about them, to fight thus for the ultimate peace of the world and for the liberation of its peoples, the German peoples included: for the rights of nations great and small and the privilege of men everywhere to choose their way of life and of obedience. The world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty. We have no selfish ends to serve. We desire no conquest, no dominion. We seek no indemnities for ourselves, no material compensation for the sacrifices we shall freely make. We are but one of the champions of the rights of mankind. We shall be satisfied when those rights have been made as secure as the faith and the freedom of nations can make them.

Just because we fight without rancour and without selfish object, seeking nothing for ourselves but what we shall wish to share with all free peoples, we shall, I feel confident, conduct our operations as belligerents without passion and ourselves observe with proud punctilio the principles of right and of fair play we profess to be fighting for.

I have said nothing of the governments allied with the Imperial Government of Germany because they have not made war upon us or challenged us to defend our right and our honour. The Austro-Hungarian Government has, indeed, avowed its unqualified endorsement and acceptance of the reckless and lawless submarine warfare adopted now without disguise by the Imperial German Government, and it has therefore not been possible for this Government to receive Count Tarnowski, the Ambassador recently accredited to this Government by the Imperial and Royal Government of Austria-Hungary; but that Government has not actually engaged in warfare against citizens of the United States on the seas, and I take the liberty, for the present at least, of postponing a discussion of our relations with the authorities at Vienna. We enter this war only where we are clearly forced into it because there are no other means of defending our rights.

It will be all the easier for us to conduct ourselves as belligerents in a high spirit of right and fairness because we act without animus, not in enmity towards a people or with the desire to bring any injury or disadvantage upon them, but only in armed opposition to an irresponsible government which has thrown aside all considerations of humanity and of right and is running amuck. We are, let me say again, the sincere friends of the German people, and shall desire nothing so much as the early re-establishment of intimate relations of mutual advantage between us,—however hard it may be for them, for the time being, to believe that this is spoken from our hearts. We have borne with their present government through all these bitter months because of that friendship,—exercising a patience and forbearance which would otherwise have been impossible. We shall, happily, still have an opportunity to prove that friendship in our daily attitude and actions towards the millions of men and women of German birth and native sympathy who live amongst us and share our life, and we shall be proud to prove it towards all who are in fact loyal to their neighbours and to the Government in the hour of test. They are, most of them, as true and loyal Americans as if they had never known any other fealty or allegiance. They will be prompt to stand with us in rebuking and restraining the few who may be of a different mind and purpose. If there should be disloyalty, it will be dealt with with a firm hand of stern repression; but, if it lifts its head at all, it will lift it only here and there and without countenance except from a lawless and malignant few.

It is a distressing and oppressive duty, Gentlemen of the Congress, which I have performed in thus addressing you. There are, it may be, many months of fiery trial and sacrifice ahead of us. It is a fearful thing to lead this great peaceful people into war, into the most terrible and disastrous of all wars, civilization itself seeming to be in the balance. But the right is more precious than peace, and we shall fight for the things which we have always carried nearest our hearts,—for democracy, for the right of those who submit to authority to have a voice in their own governments, for the rights and liberties of small nations, for a universal dominion of right by such a concert of free peoples as shall bring peace and safety to all nations and make the world itself at last free. To such a task we can dedicate our lives and our fortunes, everything that we are and everything that we have, with the pride of those who know that the day has come when America is privileged to spend her blood and her might for the principles that gave her birth and happiness and the peace which she has treasured. God helping her, she can do no other.

*The Secretary of State to the Ambassador in Great Britain (Page)*⁸⁸

No. 4916

WASHINGTON, April 6, 1917.

SIR: The Department has received numerous complaints from American citizens that remittances to persons in Germany, Austria-Hungary, and to neutral countries, have not reached their destinations, owing to their detention, as it is reported, by British authorities. Many of these complaints have been forwarded to you for investigation and report.

In the particular case mentioned in your despatch No. 5425, of December 13, 1916, special attention is invited to the statement in the British *Note Verbale* enclosed therewith that "in these circumstances I regret that it is impossible to forward the packet to its destination as it clearly falls within the class of documents in regard to which both our Governments are, I think, agreed that their transmission by mail confers no immunity from the exercise of belligerent rights". As the Department does not understand exactly what is intended by the words "no immunity from the exercise of belligerent rights", full explanation of the British procedure regarding the detention of drafts, securities, etc., is requested—i.e., whether such drafts are to be returned to the senders; if not, whether they have been seized as contraband and are to be placed in Prize Court; or whether they are to be detained until the end of the war. In short, the Department desires that you report fully regarding the intended disposition by the British authorities of the detained securities in "the exercise of belligerent rights."

This information is requested for the use of the Department and the senders or owners in this country and not for the purpose of urging the transmittal of the articles to Germany or Austria-Hungary at the present time.

Adverting to this Government's Note to Great Britain of May 24, 1916, that "money orders, checks, drafts, notes and other negotiable instruments" may be classed as merchandise,⁸⁹ you are directed, on appropriate occasion, to inform the British Government in any discussion of individual complaints of this character, that this Government reserves all rights in the premises to press claims for unjustified losses or delays that may have been caused to American citizens through the detention of such articles by British authorities.

Similar instructions have been sent to the Embassy at Paris.

I am [etc.]

ROBERT LANSING

⁸⁸ File No. 841.711/1975a; For. Rel., 1917, supp. 1, p. 522.

⁸⁹ See footnote 93, p. 498.

245

*List of American Vessels Attacked or Sunk by Submarines, Mines, et cetera, and Number of Lives Lost, from the Beginning of the War to April 6, 1917*⁹⁰

Name of Vessel	Sunk or Attacked	Lives Lost	Date
1. William P. Frye (ship) ¹	Sunk	None	January 28, 1915
2. Evelyn ²	Sunk	1	February 19, 1915
3. Carib ²	Sunk	3	February 23, 1915
4. Greenbrier ²	Sunk	None	April 2, 1915
5. Cushing ³	Attacked	None	April 28, 1915
6. Gulfight	Attacked	3	May 1, 1915
7. Nebraskan	Attacked	None	May 25, 1915
8. Seaconnet ²	Sunk	None	June 18, 1915
9. Leelanaw	Sunk	None	July 25, 1915
10. Vincent (ship) ²	Sunk	None	September 27, 1915
11. Helen W. Martin	Attacked	None	November 18, 1915
12. Owego ³	Attacked	None	August 3, 1916
13. Lanao (Philippine)	Sunk	None	October 28, 1916
14. Columbian	Sunk	None	November 8, 1916
15. Chemung	Sunk	None	November 26, 1916
16. Rebecca Palmer	Attacked	None	December 14, 1916
17. Sacramento	Attacked	None	January 6, 1917
18. Westwego	Attacked	None	January 21, 1917
19. Housatonic	Sunk	None	February 3, 1917
20. Lyman M. Law (schooner)	Sunk	None	February 12, 1917
21. Algonquin	Sunk	None	March 12, 1917
22. Vigilancia	Sunk	15	March 16, 1917
23. City of Memphis	Sunk	None	March 17, 1917
24. Illinois (tank)	Sunk	None	March 18, 1917
25. Healdton (tank)	Sunk	20	March 21, 1917
26. Aztec	Sunk	28	April 1, 1917
27. Marguerite (schooner)	Sunk	None	April 4, 1917
28. Missourian	Sunk	None	April 4, 1917

¹ Sunk by German cruiser *Prinz Eitel Friedrich*.

² Sunk by mine.

³ Attacked by airplane.

246

*Joint Resolution Declaring the Existence of a State of War between the United States and Germany, April 6, 1917*⁹¹

JOINT RESOLUTION Declaring that a state of war exists between the Imperial German Government and the Government and the people of the United States and making provision to prosecute the same.

⁹⁰ File No. 841.857L97/139½.

This table was enclosed in a letter from the Secretary of State to Senator Atlee Pomerene, Nov. 26, 1917. There was also enclosed a table showing that to Apr. 6, 1917, 177 Americans had lost their lives as the result of submarine attacks on vessels of foreign registry.

⁹¹ 40 Stat. 1, Ch. 1.

Whereas the Imperial German Government has committed repeated acts of war against the Government and the people of the United States of America: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Imperial German Government which has thus been thrust upon the United States is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.

CHAMP CLARK

Speaker of the House of Representatives

THOS. R. MARSHALL

*Vice President of the United States and
President of the Senate*

Approved 6 April, 1917.

WOODROW WILSON

247

*The Secretary of State to the President*⁹²

April 19, 1917.

MY DEAR MR. PRESIDENT: We ought to issue a list of contraband. We are receiving inquiries in regard to the matter and are unable to answer.

The Allied Governments have issued lists detailing numerous articles, the lists being very long, increasingly long because of the constant additions made from time to time.

After consideration of the subject it seemed to me that a general rather than a detailed list of contraband could be issued which would not require frequent change and consequent confusion.

If this method meets with your approval I would suggest the issuance of a contraband list like the one enclosed. It covers I believe all the articles included in the lists issued by the Allies, and at the same time it will not require constant amendments as their lists have.

Faithfully yours,

ROBERT LANSING

⁹² File No. 763.72112/3527a.

[Enclosure]

Draft List of Contraband of War

(1) All kinds of arms, guns, ammunition, explosives, and machines for their manufacture; component parts thereof; materials or ingredients used in their manufacture; articles necessary or convenient for their use.

(2) All contrivances for or means of transportation on land, in the water or air, and machines used in their manufacture; component parts thereof; materials or ingredients used in their manufacture; articles or animals necessary or convenient for their use.

(3) All kinds of food and clothing destined to come into possession or control of the enemy government or its officers or agents; articles and materials for the manufacture thereof.

(4) Tools, implements, instruments, equipment, maps, correspondence, papers and other articles, machines, or documents necessary or convenient for carrying on hostile operations.

(5) Coin, bullion, currency, evidences of debt, metals, materials, dies, plates, machinery or other articles necessary or convenient for their manufacture.

248

*The President to the Secretary of State*⁹³

20 April, 1917.

MY DEAR MR. SECRETARY: I agree with you that this form is the best in which to announce our list of contraband and that we should make an immediate announcement;⁹⁴ but I am not clear as to the meaning of all of the enclosed statement.

No. 1 is clear. Under No. 2, is it your idea that all vehicles, of whatever kind, should be considered contraband no matter whither bound? Under 3 I assume that the words "destined to come into the possession or control of the enemy government or its officers or agents" is meant to apply to "articles and materials for the manufacture thereof" as well as to "all kinds of food and clothing", but the language does not make that clear. No. 4 is clear. Under 5 I assume that it is meant only to include materials and metals useful in the manufacture of coin, currency, etc., but the section might be read to include all metals of all kinds and uses. Of course these points can all be made clear. They do not go to the merits.

Faithfully Yours,

W. W.

⁹³ File No. 763.72112/3527½.⁹⁴ The list of contraband was announced on June 30, 1917, in *Instructions for the Navy*, document 261.

249

*The Secretary of State to the Minister in Denmark (Egan)*⁹⁵

[Telegram]

WASHINGTON, April 20, 1917—6 p.m.

327. Your 586 April 16, 4 p. m. A bill has been introduced in Congress to prohibit all exports from this country except under special license, but barring such precautions as may be necessary to guard against trading with the enemy, it is not intended that this measure should produce burdensome restrictions upon or interruptions in our commerce with neutral countries. Notwithstanding that the matter is inchoate at the moment and dependent upon the Congress, you nevertheless should take occasion to allay public alarm relative to its injurious effects on Danish commerce, if the measure indicated should be adopted.

LANSING

250

*The Secretary of State to the Chargé in the Netherlands (Langhorne)*⁹⁶

[Telegram]

WASHINGTON, April 23, 1917—5 p.m.

488. Department unprepared at present to make any announcement regarding a blacklist measure but it is expected that a harmonious understanding will be had with British Government about the general question at an early date. Any measure dealing with subject must necessarily be enacted by Congress.

LANSING

251

*The Chargé in the Netherlands (Langhorne) to the Secretary of State*⁹⁷

No. 918

THE HAGUE, April 27, 1917.

[Received June 4.]

SIR: I have the honor to inform you that a great deal of anxiety has been expressed in the Dutch press on account of the publication of articles reaching this country through Reuter's agency, to the effect that the American Government intended to stop shipments of food stuffs to countries in close communication with Germany.

⁹⁵ File No. 600.119/42; For. Rel., 1917, supp. 2, p. 806.

⁹⁶ File No. 763.72112/3505; For. Rel., 1917, supp. 2, p. 807.

⁹⁷ File No. 600.119/99; For. Rel., 1917, supp. 2, p. 1117.

In connection with these reports, the Foreign Office issued the following *communiqué* to the press:

"In consequence of the proposals introduced into Congress to discuss the limitation of exports from the United States, particularly of food stuffs and metal, the Dutch Minister at Washington was instructed to obtain the feelings of the Government on the subject. The Minister has had an interview with the President of the United States and explained to him the situation, together with what the consequences would be to Holland of an eventual prohibition of exports especially of food and metal.

Mr. Wilson pointed out that the proposals as introduced did not involve prohibition of export but simply gave him the power to issue such a prohibition if necessary.

The President added that only in the case of utter necessity, which at present he did not foresee, should he be brought to forbid the export of food stuffs and metal to Holland, for he was aware of the position in which this country was placed in regard to the belligerents.

The President took the opportunity of assuring our Minister of his great sympathy for our country."

I beg to enclose a clipping from the *Gazette de Hollande* of the 24th instant, giving an article from the *Vaderland* which expresses the satisfaction now felt in the assurances given to the Dutch Minister in Washington by the President.

I have [etc.]

MARSHALL LANGHORNE

252

Memorandum by the Law Adviser for the Department of State
(Woolsey)⁹⁸

[WASHINGTON,] May 17, 1917.

QUESTIONS OF POLICY RELATING TO EXPORTS CONTROL

(1) Should the United States use its control of exports to "ration" neutral countries of Europe for the purposes:

(a) Of satisfying the home requirements of the neutral country.

NOTE (1) The United States is willing to have representatives on the international commissions dealing with rationing, and it is expected that these representatives will have access to the data upon which the commissions' decisions are based, and that the American policy as to rationing will be arrived at by an agree-

⁹⁸ File No. 600.119/427; For. Rel., 1917, supp. 2, p. 865.
Attached to this paper are the following notations:

Mr. Woolsey stated that these notes, while not definitely approved by the Secretary of State as the basis of a formal communication to the British representatives, summarize the attitude taken by the American representatives in oral discussion of the various points raised by the British.

May 27, 1929. The above was confirmed by Mr. Polk."

"March 11, 1929.

ment with the United States Government instead of by mere vote of the members of the commission on which the United States is represented and in which the United States would be outvoted. The basis of the co-operation of the United States is not to assist in the blockade of neutral countries, nor to take part in other measures of the Allies which the United States has heretofore regarded as unfounded in international law, but is based on the right of the United States to control its exports to any country, neutral or belligerent, for the purposes (1) of conserving its own supplies for the use of the United States or for the use of its allies, (2) of preventing persons in the United States from trading, directly or indirectly, with, for the benefit of, or on behalf of, the enemy or his agents, and (3) of conserving tonnage for the transportation of military necessities for the United States and our allies.

- (b) Of maintaining its exports of imported or native produce to the Allies and to the United States.

NOTE (2) The United States is willing to assist in attaining this object purely on the ground of conserving its supplies as a domestic measure and of conserving tonnage for the carriage of such articles as are needed by the United States and by its allies; e. g., the restriction of exports of coal to Spain unless she is willing to export iron ore to Great Britain for use in manufacturing munitions, in order to save tonnage which otherwise would be used for the transportation of iron ore from the United States to Great Britain for the manufacture of munitions.

- (c) Of preventing all exports to enemy countries whether of imported or native produce.

NOTE (3) The United States is willing to assist, on the above-mentioned grounds, in preventing its exports from reaching the enemy or from being used by neutral countries to replace produce exported by them to the enemy; but the United States is unwilling to carry this policy to the point where it might force neutrals into the arms of Germany.

- (d) Of putting pressure upon neutral countries to render services in the form of shipping or otherwise, such as employing a reasonable percentage of their shipping in certain trades.

NOTE (4) The United States is unwilling to force neutrals to send their ships through the danger zone in the service of the Allies or the United States further than to insist that they should use their ships to carry their own supplies to and from the belligerents.

- (e) Of forcing neutral countries to enter into diplomatic agreements in respect to any of the above.

NOTE (5) The United States is willing, on the grounds mentioned above, to try to induce neutral countries to give satisfactory assurances in respect to the above points.

- (f) Of forcing Sweden to a diplomatic agreement in respect to the transit across her territory of goods for Russia.

NOTE (6) The United States will, on the grounds mentioned, assist in obtaining from Sweden an equitable arrangement for transit of goods to Russia, while recognizing Sweden's absolute right to control transit of goods over her own territory. At the same time, the United States has the same right to control exports and to grant as a favor to Sweden exportation of certain articles in return for concessions by Sweden in the line of transit privileges to Russia and limitation of exports to Germany.

Great Britain has heretofore attained the objects set forth above through her exercise of belligerent maritime measures, depending upon the Prize Court to condemn property violating those measures. The United States regards certain of the measures in question as illegal; but that does not prevent the United States from controlling its exports as a purely domestic measure for the conservation of supplies and of tonnage and for preventing indirect trading with the enemy, and from attaining through bargaining for the exportation of certain articles many of the objects attained by Great Britain.

(2) Should the system of "letters of assurance" used by the British Embassy here in case of shipments to Norway, Sweden, and Denmark, preventing contraband carriage and enforcing "rationing", "blacklists", and "bunker control" as to these three neutral countries, be replaced by United States licenses to be issued after consultation with the British Government and to be recognized by the British patrol and by British authorities in the United Kingdom under an agreement between the two Governments? Occasionally American cargoes covered by letters of assurance are detained by the British patrol or British authorities in port because of the discovery of new facts between the date of shipment and the date of their detention.

NOTE (7) The United States is willing to undertake gradually to issue licenses for exports on condition that these licenses shall be by agreement recognized by the British patrol and by the British authorities as of the same value as their letters of assurance. There ought to be no difficulty as to the recognition of the validity of American licenses if the British patrol and British authorities are instructed to do so. The licenses may be made by agreement to be issued subject to the discovery of new facts subsequent to shipment, but these should be real facts, and not ostensible facts. The aim of the United States is finally to substitute complete licenses for letters of assurance; but naturally this will have to be accomplished gradually, taking, for example, certain articles at a time.

Or should an American license be issued after consultation with the British Government, and accompany British letters of assurance issued for the same shipment?

NOTE (8) The United States is unwilling to have British letters of assurance accompany an American license. The advantage of American licenses is that American citizens deal entirely with the American Government, the American authorities conferring with the British as to the issuance of licenses.

(3) Should the United States undertake "bunker control" by the prohibition of bunker coal, oil fuel, and ships' stores except by license, in order to control:

- (a) The supply of bunkers only to such neutral ships as are approved by the British Government?

NOTE (9) The United States Government desires to have an equal voice with the British Government in approving the neutral ships.

- (b) The exportation of coal, oil fuel, and ships' stores to such firms as have agreed:

- (1) to supply bunkers only to approved ships;

NOTE (10) The United States desires to have an equal voice in the selection of these firms as well as in the approval of ships.

- (2) not to dispose of coal, oil fuel, or ships' stores in any way beneficial to the enemy.

NOTE (11) The United States can not go to the extent of refusing coal, oil fuel, and ships' stores, or any of them, to persons merely on account of enemy nationality or association. Some reasonable ground for believing that the coal importers are using the coal for the direct benefit of Germany is essential. The United States is willing to see to it that its coal, fuel oil, and ships' stores are not used to supply enemy raiders or submarines or otherwise in trading with the enemy.

- (c) The movements of neutral ships so that they would:

- (1) call at British ports for examination;

NOTE (12) The United States is unwilling to force neutral ships to call at British ports for examination, but the issuance of licenses in the United States will make such examination unnecessary unless new evidence is discovered as mentioned in paragraph (2). It may be possible for the United States to allow outgoing ships to carry only a limited amount of coal, fuel oil, and ships' stores, sufficient for reaching the British port of examination.

- (2) refuse to supply commerce raiders;

NOTE (13) The United States is willing to refuse the supply of coal, fuel oil, and ships' stores to neutral vessels who may possibly supply enemy raiders or submarines.

- (3) refuse the transportation of enemy reservists and agents;

NOTE (14) The United States is willing to make the supply of coal, fuel oil, and ships' stores to ships conditioned upon their agreeing not to transport enemy subjects or agents on the ground that the supply of coal, etc. is a favor, and in return the ships should not carry persons likely to be inimical to the interests of the United States.

- (4) agree to do a certain amount of service beneficial to the Allies so as to economize tonnage;

NOTE (15) The United States is willing to induce neutral ships to carry supplies to and from neutral countries but not to force neutral ships into the danger zone in service for the Allies or the United States.

- (5) take only approved cargoes, so as to reduce the delay caused by examination in British ports.

NOTE (16) The issuance of licenses by the United States for cargoes going to Europe will, it is expected, by agreement between the two Governments, make delay by reason of examination in British ports unnecessary except in a case where, as mentioned above, new facts regarding the cargo are discovered after its departure.

The foregoing control has resulted in a British "ships' white list" and a list of consignees called the "regular and reliable list of coal importers," or the "coal white list." The "ships' blacklist" consists of ships who refuse to agree to this control or have broken their agreement, traded with the enemy, or supplied enemy ships. This list might now have to be extended so as to include (c) (4) (5) above.

NOTE (17) The United States is prepared to agree with the Allies upon a "coal white list" in accordance with the views expressed in Notes 9-16 inclusive. As probably the British "coal white list" is a compromise between France and Great Britain, there should be no objection to a list being prepared to which the United States could agree.

If the United States cannot go this far, will it at least take such steps as are necessary to prevent American coal being used to weaken or evade the control at present exercised by means of British coal, by (1) limiting the export of American coal to firms on the "coal white list," and (2) preventing neutral ships from bunkering for the round voyage, or further than the next suitable bunkering port, so that from that point they would come under British control.

NOTE (18) The United States prefers to reserve its decision on the foregoing paragraph until experience shall show how the procedure under the preceding paragraph operates in practice.

(4) Will the United States refuse to export to persons on the British Statutory List and Confidential Blacklist, as well as the French Official Blacklist, composed of persons of enemy nationality or association? The British Mission point out the convenience of having the list of persons to whom the United States would refuse exports identical with their blacklists.

NOTE (19) The United States is not prepared to accept the British and French blacklists in their entirety. The United States, however, is prepared to refuse exports on the grounds already mentioned;

- (1) to persons in neutral countries who, there is good reason to believe, are using the goods in trade with, on behalf of, or for the benefit of, the enemy, directly or indirectly; and
- (2) to persons who, for special reasons, are not, in the opinion of the United States, entitled to exports; e. g., revolutionists in Central America, etc.

As the control of *exports* to blacklisted firms would not control *imports* from such firms, would the United States, under the Enemy Trading Act, prevent such import transactions as being for and on behalf of the enemy, within the terms of the act? The Enemy Trading Act provides that the President may, by proclamation, place enemies in neutral countries in the same category as persons in Germany; but this is discretionary with him, as the Act is drafted to avoid the blacklist.

NOTE (20) The United States is not prepared to prevent, under the Enemy Trading Act, imports into the United States from blacklisted firms and payments to them for such imports unless there is satisfactory reason to believe that the transaction amounts to trading with, for the benefit of, or on behalf of, Germany. The United States is in a different position from European countries as to such trade with South America, in that it can not afford to rouse the ill-feeling of Latin-American countries nor to lose the profits which accrue from trading with Germans in those countries—profits which go toward defraying the expenses of the war.

Would the United States make the import transactions prohibitive also through preventing transfers of money and credit by strict censorship of the mails as well as the cables, telegraph, and wireless?

NOTE (21) See Note (20).

Would the United States go to the extent of giving enemy character to natives of a neutral country who are not agents of Germany or an ally of Germany, but who might be actively assisting Germany in propaganda and intrigue?

NOTE (22) The United States is not prepared to go this length, but is prepared to examine each case in order to ascertain the seriousness of the propaganda or intrigue.

(5) As to the necessary machinery for carrying out the foregoing, would the United States appoint a representative on the "Rationing Committee" and in the "War Trade Statistical Department" in London, et cetera, and allow the British Government to have a representative on similar advisory committees in Washington?

NOTE (23) The United States will appoint representatives on the various committees of the Allies on the understanding that arrangements reached by the Allies are not to be concluded without the approval of the United States Government. The United States desires that it co-operate with the Allies, not in an advisory capacity, but upon the basis of equality and mutual agreement.

Would the United States lend the assistance of the State, Commerce, and other Departments, both here and abroad, in obtaining necessary information regarding rationing, blacklists, bunker control, et cetera?

NOTE (24) The United States will lend its assistance in obtaining all the information possible for the enforcement of the measures upon which it is in agreement with the Allies and for the enforcement of other measures upon which it is not in agreement, upon the reservation that such action is not to be taken as committing it to those measures.

(6) Should the policies upon which licenses are issued by the United States be subject to the approval or disapproval of the Secretary of State?

NOTE (25) It is believed that the Department of State should have a veto power with regard to the issuance of licenses, on account of the international political questions which are involved in any licensing system which may be established. This is shown by the delicate situation of the neutral countries in Europe regarding which the Department of State has confidential information which can not be divulged.

253

*The Secretary of State to the Ambassador in Spain (Willard)*⁹⁹

[Telegram]

WASHINGTON, May 22, 1917—6 p. m.

481. Department advised by British Commission now here that the Spanish Government may be inclined to refuse to Great Britain iron ore which is greatly needed for the manufacture of munitions, since Spain believes she no longer needs to obtain coal from Great Britain because she can obtain it from the United States. You may, at an opportune moment, say to the Foreign Minister that the recent reports of Spanish attempts to purchase coal in the United States make

⁹⁹ File No. 600.119/82; For. Rel., 1917, supp. 2, pp. 1202.

it important to bring to his notice the fact that American coal is being increasingly needed owing to the exigencies of war, not only in the United States, but for the supply of our co-belligerents, and that it may be necessary, therefore, for this Government to restrict or prohibit the exportation of coal to neutrals. Add that this advance notice is given in order that the Spanish Government may be fully cognizant of the situation, and may understand the nature of the prohibition should it be declared. Add also that if Spain is willing to continue to export iron ore to Great Britain as heretofore, so as to relieve as much as possible the large exportations of iron and iron products, including tubing, from the United States to Great Britain and her allies it may be possible to facilitate the exportation of limited amounts of coal to Spain.

Cooperate fully and informally with the British Ambassador in this matter and report by cable.

For your own information. The British Commission here believe that the Spanish Government is inimicable to Great Britain and is likely to embarrass her by curtailing her supply of iron ore, which is essential to her munitions factories and to impose other restrictions. The United States is not desirous of assisting Spain to obtain coal here while her refusal to furnish ore to Great Britain will make a larger demand upon American iron and iron products, which are much needed here. Reference is made to tubing because it is understood that Spanish buyers are negotiating for large purchases of that material in the United States at the present time.

LANSING

254

*Memorandum by the Law Adviser for the Department of State
(Woolsey)*¹

[WASHINGTON,] May 25, 1917.

Mr. Woolsey read the following to Lord Percy, but did not give him a copy:

As American Export Control legislation is still pending in Congress and may be modified prior to enactment into law, all that can be said at the present time in regard to "bunker control" is that if the United States is given legislative authority, it is the present tentative view of the Secretary of State that the most feasible method of exercising bunker control is that set forth in the first British proposal, paragraph (a) of the attached draft memorandum dated May 24, 1917, with the addition at the end of the following proviso:

¹ File No. 600.119/427; For. Rel., 1917, supp. 2, p. 874.

"Provided, that either Government has liberty to propose additions to or removals from the 'coal white list,' and in the event of disagreement, reserves the right to export coal to such additional persons (not on the 'coal white list') who subscribe to the 'conditions of supply of cargo coal' agreed upon by the two Governments, or to refuse to export coal to any persons regarded as undesirable,"

with the reservations made by the United States Government in Paragraphs (c), (e), and (f) of said attached draft memorandum.

The United States, however, does not commit itself to accepting this proposal, or limit its freedom of action in accepting the second proposal or modifications of these proposals.

[Appendix—Draft Memorandum]

May 24, 1917.

The British Government has made two proposals regarding co-operation between the British and American Governments in the matter of "bunker control":

(a) The first proposal is, that the United States take such steps as may be necessary to prevent American coal being used to evade the control at present exercised by the British Government through the supply of British coal, and that this be accomplished by the United States (1) prohibiting neutral ships from bunkering for the round voyage or farther than the next suitable bunkering port, and (2) limiting the supply of American cargo coal to persons on the "coal white list" who have subscribed to the "conditions of supply of cargo coal" mentioned above.

(b) The alternative proposal is that the United States Government limit the supply of bunker coal, oil fuel, and ships' stores to neutral ships, in accordance with the "revised bunker conditions," a copy of which is attached hereto; and limit the supply of cargo coal to persons on the "regular and reliable list of coal importers in neutral countries," otherwise known as the "coal white list," which is made up of persons who subscribe to the "conditions of supply of cargo coal," a copy of which is enclosed.²

(c) The United States Government is prepared to accept the first alternative provided it is understood that the control which would thus be exercised by the British Government, does not apply to ships under the American flag.

(d) The United States could only accept the second alternative on the following additional conditions:

- (1) That the words "a subject (including a firm or company) of Germany, et cetera," in Paragraph (2) of the "Revised Bunker Conditions," should be interpreted to mean, in the view of the United States Government, "a person (including a firm or company) in Germany, et cetera."

² Not printed.

- (2) That the United States Government reserves the right to approve or disapprove independently the consignee mentioned in Paragraph (6). The United States Government recognizes, however, the desirability of close co-operation with the British authorities in general in this matter.
- (3) That in administering Paragraphs (11) and (13) neutral ships should not be forced into the danger zone against the wishes of the ship-owners. This stipulation is made not so much in the interest of the owner as of the crew. To this end Paragraph (13) should read as follows: "Every firm which requires bunker coal from Allied sources to perform a reasonable amount of service in return. The amount and character of the service to be determined by a committee composed of representatives of the British and United States Governments. Any neutral ships time-chartered under this arrangement to be allocated by the Inter-Allied Chartering Executive, on which the United States is to be represented.["]]
- (4) That Paragraph (14) should have added at the end the words: "unless the consignment is specifically approved by the United States Government."

(e) In accepting either of these alternative proposals, it is to be understood that the United States Government does not thereby waive the contentions which it has heretofore made in regard to the British measures of blockade, rationing, letters of assurance, bunker control, blacklist, et cetera; and that the United States Government is not to be taken as adhering directly or indirectly or by implication to those measures or the grounds upon which they are founded; but that, on the contrary, the action of the United States is based on its intention, as a domestic measure, to prevent supplies from reaching enemy raiders or submarines, to prevent trading with, for the benefit of, or on behalf of, the enemy, directly or indirectly, to prevent the carriage of contraband of war, to conserve the supplies of the United States for its own use and the use of its allies, and to economize ships, tonnage for the transportation of military necessities for the United States and its allies.³

(f) In appointing representatives on any committee or commission connected with, or passing upon, matters relating to the supply of coal, fuel oil, or ships' stores, the United States Government does so, simply for the purpose of consultation, and on the understanding

³ The Consul General at London had reported to the Ambassador on Apr. 2:

"Our friends in the blockade department are quite prepared to believe, I think, that the Department of State will not recede from its expressed position on points of law, and that it will consider the blockade to be just as illegal after we go to war as now, and will have a still poorer opinion of the black list: but they probably hope that the Department will recognise these weapons as existing *de facto*, and will assume towards them, if I may so express it, an attitude of benevolent neutrality." (File No. 763.72112/3512, For. Rel., 1917, supp. 2, p. 803.)

that it reserves its freedom of action in any case of dissent from the conclusions arrived at by such bodies.

255

Agreement between France, Great Britain, Italy, and the United States, Relating to Silks and Silk Goods, June 9, 1917⁴

[Translation—Extract]

The Delegates of the American, British, French and Italian Governments met together in Paris, in order to put an end to the exportation via Switzerland of silks and silk goods destined for the enemy Empires, have, at the termination of the conferences held June 5th, 6th, 7th, 8th and 9th, 1917, recommended to their Governments the following resolutions:

I. The Allied Governments will prohibit the exportation of articles comprised in the general designation of silks and silk goods that are not now affected by any measure of this sort, which is notably the case as regards worked or thrown silks, including tussore silks.

This prohibition does not apply to shipments from allied countries to allied countries, nor to exports destined for Spain and neutral transatlantic States for which a general exception is granted. It will apply only to neutral countries bordering upon enemy States or situated in the north of Europe.

This prohibition will take effect on and after June 25th, 1917.

II. The prohibition of the exportation of thrown and reeled silks being liable to work injury to the principal export trade of Italy, the contracting Governments adopt the system suggested jointly by the French and Italian Ministers of Commerce and Industry which consists in fixing for such silks a minimum price, upon the basis of which, pending the duration of the prohibitive measures, an inter-allied purchasing bureau would become the buyer of these goods, thus preventing a decline in the quotation below this limit.

This operation would be conducted at the expense and risk of France, America and Great Britain, the necessary advances of funds being shared equally among these three States, as well as any possible losses when the silk is resold. In case of any profit, one fourth each of the total amount will be allotted to France, Great Britain and America, the last fourth being reserved for Italy, this distribution being justified in view of the sacrifices accepted by Italy and in spite of the fact that she takes no part in the advance of funds nor in possible losses.⁵

⁴ File No. 600.001/112; For. Rel., 1917, supp. 2, p. 1169.

⁵ The Ambassador in France was informed on July 17, 1917, that the President had set aside the necessary sum to cover expenses of the silk conference proposals (File No. 600.001/121; For. Rel., 1917, supp. 2, p. 1170).

The Ambassador was instructed on Dec. 8, 1917, that when Great Britain, Italy, and France had formally adhered to the agreement of June 9, 1917, and were ready to deposit their quotas, he was authorized to deposit the quota of the United States (File No. 600.001/177; For. Rel., 1917, supp. 2, p. 1184).

XII. Pursuant to the foregoing measures, Article 10, Paragraph C, No. 2 of the interior regulations of the SSS shall be revised.

The Allied Governments will endeavor to obtain from the Swiss Federal Government the following amendment to the present text:—

Done at Paris, in four originals, signed by the Representatives of the four contracting Governments.

[No signatures indicated]

June 9, 1917.

256

Extract from the Espionage Act of June 15, 1917^a

TITLE VII—CERTAIN EXPORTS IN TIME OF WAR UNLAWFUL

SECTION 1. Whenever during the present war the President shall find that the public safety shall so require, and shall make proclamation thereof, it shall be unlawful to export from or ship from or take out of the United States to any country named in such proclamation any article or articles mentioned in such proclamation, except at such time or times, and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: *Provided, however,* That no preference shall be given to the ports of one State over those of another.

SEC. 2. Any person who shall export, ship, or take out, or deliver or attempt to deliver for export, shipment, or taking out, any article in violation of this title, or of any regulation or order made hereunder, shall be fined not more than \$10,000, or, if a natural person, imprisoned for not more than two years, or both; and any articles so delivered or exported, shipped, or taken out, or so attempted to be delivered or exported, shipped, or taken out, shall be seized and forfeited to the United States; and any officer, director, or agent of a corporation who participates in any such violation shall be liable to like fine or imprisonment, or both.

SEC. 3. Whenever there is reasonable cause to believe that any vessel, domestic or foreign, is about to carry out of the United States any article or articles in violation of the provisions of this title, the collector of customs for the district in which such vessel is located is hereby authorized and empowered, subject to review by the Secretary of Commerce, to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal

^a 40 Stat. 217.

notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart. Whoever, in violation of any of the provisions of this section shall take, or attempt to take, or authorize the taking of any such vessel, out of port or from the jurisdiction of the United States, shall be fined not more than \$10,000 or imprisoned not more than two years, or both; and, in addition, such vessel, her tackle, apparel, furniture, equipment, and her forbidden cargo shall be forfeited to the United States.

257

The Secretary of State to the Swiss Minister (Ritter) ⁷

No. 482

WASHINGTON, June 19, 1917.

SIR: I have the honor to acknowledge the receipt of your note of June 13, 1917, with reference to the adoption by Congress of the Espionage Bill with a provision conferring upon the President of the United States authority to declare an embargo on the exports of certain goods to certain countries and the possible effect of the Act upon the receipt of supplies by Switzerland.

It is not the intention of the Government of the United States to interfere with the exportation of needed supplies to Switzerland or other neutral European countries where measures have been adopted to prevent the reshipment of such supplies to Germany and its allies, subject always, of course, to the paramount needs of this country and its allies in connection with the prosecution of the war.

I am forwarding a copy of your note and the enclosure thereto to the Secretary of Commerce for his information and at such time as the President shall make proclamation under the authority conferred upon him in the provision of the Espionage Bill referred to and the selection of the personnel of the division to deal specifically with this question shall have been made, a representative of the Government of the United States dealing with this matter will be glad to confer with a representative of your Legation in regard thereto.

Accept [etc.]

For the Secretary of State:

FRANK L. POLK

⁷ File No. 600.119/121; For. Rel., 1917, supp. 2, p. 1168.

258

*The Secretary of State to the Minister in Sweden (Morris)*⁸

[Telegram]

WASHINGTON, June 20, 1917.

To facilitate the enforcement of the law authorizing the President to prohibit exports except under license and prevent trade with the enemy, you will instruct all consular officers in Sweden to forward immediately to the Department all information already on file and use their utmost endeavor to procure and forward from this time on all additional information with respect, (1) to persons or firms of enemy nationality or association or activity; (2) persons or firms which are acting directly or indirectly in enemy interests; (3) indications that American goods are reaching unfriendly consignees or passing through neutral countries into enemy hands. Information deemed of immediate importance should be telegraphed while other information should be sent by mail in usual manner. Also instruct consular officers to offer assistance to their British colleagues in respect to these matters.

American diplomatic and consular officers will cooperate fully on basis of reciprocity with officers of British, French, Italian, and other Governments opposed to Germany, exchanging information and furnishing them copies of reports and affidavits if they so desire in relation to war matters.

Diplomatic and consular officers will continue to report promptly military, and political information of interest to the Department and consuls will perform conventional consular services without regard to British blacklist.⁹

Diplomatic officers will investigate all concerns on British and French statutory lists, consulting evidence in possession of Allied colleagues and cable preliminary digest and send full details by mail.

LANSING

259

*Executive Order Establishing an Exports Council, June 22, 1917*¹⁰

By virtue of authority vested in me by Title VII of the Act approved June 15, 1917, entitled, "An Act to punish acts of interference

⁸ File No. 763.72112/3838; For. Rel., 1917, supp. 2, p. 882.

The same, *mutatis mutandis*, to the diplomatic representatives in the other neutral countries.

⁹ This was explained as follows in a telegram of July 6 to the Ambassador in Italy (File No. 763.72112/3873): "Phrase means that Consuls will continue to perform notarial, invoice, and other like conventional services for firms on British blacklist."

¹⁰ Executive Order No. 2645; For. Rel., 1917, supp. 2, p. 883.

with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage and better to enforce the criminal laws of the United States, and for other purposes," I hereby vest in the Secretary of Commerce the executive administration of all instructions issued by the President under said Title VII and of the proclamations thereunder and the said Secretary is hereby authorized and directed to take such measures as may be necessary to administer and execute the same and to grant or refuse export licenses thereunder, in accordance with those instructions.

I hereby establish an Exports Council, to be composed of the Secretary of State, the Secretary of Agriculture, the Secretary of Commerce, and the Food Administrator, and I hereby authorize and direct the said Exports Council, thus constituted, to formulate, for the consideration and approval of the President, policies and make the recommendations necessary to carry out the purposes of this Act.

WOODROW WILSON

THE WHITE HOUSE,
22 June, 1917

260

*The Secretary of State to Diplomatic Officers in All Latin American Countries except Haiti, Santo Domingo, and Venezuela*¹¹

[Circular telegram]

WASHINGTON, June 27, 1917.

Give publicity to following extracts from President's statement regarding policy of export control.¹² Repeat consuls.

"There will, of course, be no prohibition of exports. The normal course of trade will be interfered with as little as possible, and, so far as possible, only its abnormal course directed. The whole object will be to direct exports in such a way that they will go first and by preference where they are most needed and most immediately needed, and temporarily to withhold them, if necessary, where they can best be spared. Our primary duty in the matter of foodstuffs and like necessities is to see to it that the peoples associated with us in the war got as generous a proportion as possible of our surplus; but it will also be our wish and purpose to supply the neutral nations

¹¹ File No. 600.119/244a; For. Rel., 1917, supp. 2, 885.

¹² The only part omitted from the President's statement is the first paragraph which is as follows: "It is important that the country should understand just what is intended in the control of exports which is about to be undertaken, and since the power is vested by the Congress in the President I can speak with authority concerning it. The Exports Council will be merely advisory to the President." *The Official Bulletin*, Washington, June 26, 1917 (vol. 1, no. 40), p. 1.

whose peoples depend upon us for such supplies as nearly in proportion to their need as the amount to be divided permits.

There will, thus, be little check put upon the volume of exports and the prices obtained for them will not be affected by this regulation.

This policy will be carried out, not by prohibitive regulations, therefore, but by a system of licensing exports which will be as simply organized and administered as possible, so as to constitute no impediment to the normal flow of commerce. In brief, the free play of trade will not be arbitrarily interfered with: it will only be intelligently and systematically directed in the light of full information with regard to needs and market conditions throughout the world and the necessities of our people at home and our armies and the armies of our associates abroad.

The government is taking, or has taken, steps to ascertain, for example, just what the available present supply of wheat and corn is remaining from the crops of last year; to learn from each of the countries exporting these foodstuffs from the United States what their purchases in this country now are, and where they are stored; and what their needs are, in order that we may adjust things so far as possible to our own needs and free stocks; and this information is in course of being rapidly supplied.

The case of wheat and corn will serve as an illustration of all the rest, of supplies of all kinds. Our trade can be successfully and profitably conducted now, the war pushed to a victorious issue, and the needs of our own people and of the other peoples with whom we are still free to trade efficiently met only by systematic direction; and that is what will be attempted. Woodrow Wilson."

LANSING

261

*Instructions for the Navy of the United States Governing Maritime Warfare, June 1917*¹³

WASHINGTON, June 30, 1917.

The following instructions for the Navy of the United States Governing Maritime Warfare are issued for the information and guidance of the naval service.

JOSEPHUS DANIELS, *Secretary*.

INTRODUCTION

The following instructions have been prepared in accordance with international law, treaties, and conventions to which the United States is a party, the statutes of the United States, and, where no international agreement or treaty provision exists covering any special point, in accordance with the practice and attitude of the United

¹³ As published by the Navy Department (Government Printing Office, 1917). The Appendices containing the various forms referred to throughout these instructions, not printed.

States as hitherto determined by court decisions and Executive pronouncements.

The treaties to which marginal references¹⁴ are made may be found in *Treaties and Conventions between the United States and other Powers*, 1776-1909, 1910-1913, three volumes. Treaties in force prior to 1904 are printed in *Compilation of Treaties in Force*, 1904. The Hague and Geneva conventions, which have been ratified before April 12, 1911, may also be found in Navy Department publication entitled "Hague and Geneva Conventions." The Geneva convention of 1906 is also printed with *International Law Topics and Discussions*, Naval War College, 1906. All The Hague conventions of 1907, whether or not ratified, were printed for convenience of reference with *International Law Situations*, Naval War College, 1908.

Treaties between the United States and other powers are cited in the marginal references under the name of the foreign State, and the year of the treaty, as "Brazil, 1828," refers to the treaty between the United States and Brazil of 1828.

Marginal references to treaties, etc., should be consulted before decisions are made.

The Declaration of Paris of 1856 is cited as "Dec. of Paris, 1856." The United States did not formally adhere to this declaration, but has in practice followed its provisions.

The Hague conventions are cited by the numbers assigned at The Hague conference, as:

"IV, Hague, 1907," refers to the convention respecting the laws and customs of war on land.

"VIII, Hague, 1907," refers to the convention relative to the laying of automatic-contact submarine mines.

"IX, Hague, 1907," refers to the convention concerning bombardment by naval forces in time of war.

"X, Hague, 1907," refers to the convention for the adaptation to maritime war of the principles of the Geneva convention.

"XI, Hague, 1907," refers to the convention relative to certain restrictions with regard to the exercise of the right of capture in maritime war.

"XIII, Hague, 1907," refers to the convention concerning the rights and duties of neutral powers in maritime war.

"XIV, Hague, 1907," refers to the declaration prohibiting the discharge of projectiles and explosives from balloons.

The action taken upon the above Hague convention and declarations prior to October 7, 1915, by the powers represented at The Hague conference of 1907 is indicated in the following table:

¹⁴ Marginal references have been transferred to follow immediately after the text to which they refer and have been set in smaller type.

INSTRUCTIONS FOR THE NAVY OF THE UNITED STATES GOVERNING MARITIME WARFARE¹⁵

SECTION I. *Belligerents in Neutral Jurisdiction*

GENERAL

1. Belligerents are bound to respect the sovereign rights of neutral powers and to abstain, in neutral territory or neutral waters, from all acts which would constitute, on the part of the powers which knowingly permitted them, a nonfulfillment of their neutrality.

SPECIAL PROVISIONS

2. The neutrality of a power is not affected by the mere passage through its territorial waters of ships of war or prizes belonging to belligerents.

3. A neutral power may allow belligerent ships of war to employ its licensed pilots.

ENTRANCE, SOJOURN, AND DEPARTURE OF SHIPS OF WAR

4. In the absence of special provisions to the contrary in the legislation, ordinances, or treaties of the neutral power, the maximum number of ships of war belonging to one belligerent which may be in one of the ports or roadsteads of that power simultaneously shall be three.

See also treaties with Bolivia, 1858, art. 9; Colombia (New Granada), 1846, art. 8; Norway (*see* Sweden), Sweden, 1783, art. 21.¹⁶

¹⁵ Attention is directed to the following provisions of the laws of the United States:

The word "vessel" includes every description of water craft or other artificial contrivance used, or capable of being used, as a means of transportation on water. (Sec. 3, Revised Statutes.)

Vessels registered pursuant to law and no others, except such as shall be duly qualified according to law for carrying on the coasting or fishing trade, shall be deemed vessels of the United States, and entitled to the benefits and privileges appertaining to such vessels; but no such vessel shall enjoy such benefits and privileges longer than it shall continue to be wholly owned by a citizen or citizens of the United States, or a corporation created under the laws of any of the States thereof * * *. (Sec. 4131, Rev. Stat., as amended by act of June 26, 1884; sec. 1, 23 Stat. L., p. 23, and act May 28, 1896; secs. 1 and 3, 29 Stat. L., pp. 188, 189.)

The words "vessel of the United States," wherever they occur in this chapter, shall be construed to mean a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State, Territory, or District thereof. (Sec. 310, Chap. XII, Piracy and Other Offenses upon the Seas, Penal Code, Mar. 4, 1909, 35 Stat. L., p. 1148.)

For other provisions of United States laws relating to American vessels see Appendix IV.

[Footnote appears in Navy Department print.]

¹⁶ By article 17 of the treaty of July 4, 1827, between the United States and Sweden and Norway, articles 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, and 25 of the treaty of 1783 between the United States and Sweden were extended to Norway. Upon the dissolution of the union between Sweden and Norway it was agreed that the treaties then in force would continue binding on the United States on the one hand and Sweden and Norway individually on the other. (Malloy: *Treaties, Conventions, etc.*, between the United States and other Powers, 1776-1909.)

[Footnote appears in Navy Department print.]

5. In the absence of special provisions to the contrary in the legislation, ordinances, or treaties of the neutral power, belligerent ships of war are forbidden to remain in the ports, roadsteads, or territorial waters of the said power for more than twenty-four hours, except in the cases covered by paragraphs 6, 7, 8, 9, 10, and 17.

(Special provisions published by neutral powers will be made known.)

6. A belligerent ship of war must not prolong its stay in a neutral port beyond the period legally allowed except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end.

7. The regulations as to the limitation of the length of time which belligerent ships of war may remain in neutral ports, roadsteads, or waters do not apply to ships of war devoted exclusively to religious, scientific, or philanthropic purposes.

8. When ships of war of opposing belligerents are present simultaneously in the same neutral port or roadstead, a period of not less than twenty-four hours must elapse between the departure of a ship belonging to one belligerent and the departure of a ship belonging to the adversary.

9. The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of the period of stay legally allowed is admissible.

10. A belligerent ship of war must not leave a neutral port or roadstead until twenty-four hours after the departure of a merchant ship flying the flag of its adversary.

INTERNMENT

11. If, notwithstanding the notification of the neutral authorities, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.

See also treaties with Bolivia, 1858, art. 9; Colombia (New Granada), 1846, art. 9; Norway (*see* Sweden); Sweden, 1783, art. 21.

HOSTILE ACTS, VISIT AND SEARCH

12. All acts of hostility, including capture and the exercise of the right of visit and search, committed by belligerent ships of war in the territorial waters of a neutral power, constitute a violation of neutrality and are strictly forbidden.

BASE OF OPERATIONS OR COMMUNICATIONS

13. Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect radio stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.

See also treaty with Great Britain, 1871, art. 6.

INCREASE OF WAR MATERIAL AND PERSONNEL

14. Belligerent ships of war must not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.¹⁷

FOOD AND FUEL

15. Belligerent ships of war can not revictual in neutral ports or roadsteads except to complete their normal peace supply subject to the approval of the neutral authorities.

16. Similarly, these vessels can take only such fuel and ship supplies as are, in the opinion of the neutral authorities, sufficient to enable the vessels to reach the nearest port of their own country. They may, on the other hand, fill up their bunkers properly so called when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

See also treaties with Colombia (New Granada), 1846, art. 9; Norway (*see* Sweden); Sweden, 1783, art. 21.

(Special provisions published by neutral powers will be made known.)

17. If, in accordance with the law of the neutral power, the ships are not furnished with fuel, and victuals and ship supplies and necessary repairs within twenty-four hours after their arrival, the law-

¹⁷ Whoever, within the territory or jurisdiction of the United States, increases or augments, or procures to be increased or augmented, or knowingly is concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by adding thereto any equipment solely applicable to war, shall be fined not more than one thousand dollars and imprisoned not more than one year. (Section 12, act March 4, 1909.) [Footnote appears in Navy Department print.]

ful duration of their stay may be extended a reasonable period by the neutral authorities.

18. Belligerent ships of war which have taken fuel, victuals, and ship's supplies in a port of a neutral power can not within the succeeding three months replenish their supply in a port of the same power.¹⁸

REPAIRS

19. In neutral ports and roadsteads belligerent ships of war can carry out such repairs only as are absolutely necessary to render them seaworthy, and can not add in any manner whatsoever to their fighting force. The authorities of the neutral power shall decide what repairs are to be made and these must be carried out with the least possible delay.

See also treaties with Bolivia, 1858, art. 9; Colombia (New Granada), 1846, art. 9; Norway (*see* Sweden); Sweden, 1783, art. 21.

ENTRANCE WITH PRIZE

20. A prize can be brought into a neutral port only on account of unseaworthiness, stress of weather, or want of fuel or provisions.

See also treaties with Norway (*see* Sweden); Prussia, 1799, art. 19; Sweden, 1783, art. 19.

21. It must leave as soon as the circumstances which justified its entry are at an end.

ANNOUNCED NEUTRALITY REGULATIONS

22. United States naval officers must observe the regulations of neutrality announced by neutral nations.

SECTION II. *Contraband*

GENERAL

23. In the absence of notice of change which the Government of the United States may make at the outbreak of or during war, the following classification and enumeration of contraband will govern commanders of ships of war.

¹⁸ Hospitality extended in the waters of the Republic of Panama to a belligerent vessel of war or a vessel belligerent or neutral, whether armed or not, which is employed by a belligerent power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea, shall serve to deprive such vessel of like hospitality in the Panama Canal Zone for a period of three months, and *vice versa*. (Agreement of October 10, 1914, between the United States and Panama, regarding mutual obligations as neutrals.)

[Footnote appears in Navy Department print.]

CONTRABAND LIST

24. The articles and materials mentioned in the following paragraphs (a), (b), (c), and (d), actually destined to territory belonging to or occupied by the enemy or to armed forces of the enemy, and the articles and materials mentioned in the following paragraph (e) actually destined for the use of the enemy Government or its armed forces, are, unless exempted by treaty, regarded as contraband.

See also treaties with Bolivia, 1858, art. 17; Colombia (New Granada), 1846, art. 17; Italy, 1871, art. 15; Norway (*see* Sweden); Prussia, 1799, art. 13; Sweden, 1783, art. 9.

(a) All kinds of arms, guns, ammunition, explosives, and machines for their manufacture or repair; component parts thereof; materials or ingredients used in their manufacture; articles necessary or convenient for their use.

(b) All contrivances for or means of transportation on land, in the water or air, and machines used in their manufacture or repair; component parts thereof; materials or ingredients used in their manufacture; instruments, articles or animals necessary or convenient for their use.

(c) All means of communication, tools, implements, instruments, equipment, maps, pictures, papers and other articles, machines, or documents necessary or convenient for carrying on hostile operations.

(d) Coin, bullion, currency, evidences of debt; also metal, materials, dies, plates, machinery or other articles necessary or convenient for their manufacture.

(e) All kinds of fuel, food, foodstuffs, feed, forage, and clothing and articles and materials used in their manufacture.

NONCONTRABAND

25. Articles and materials even though enumerated in paragraph 24, if exempted, by special treaty provisions, are not regarded as contraband.

See also treaties with Bolivia, 1858, art. 18; Colombia (New Granada), 1846, art. 18; Italy, 1871, art. 15; Norway (*see* Sweden); Sweden, 1783, arts. 8, 10.

SECTION III. *Blockade*

EXTENT AND LIMITATIONS

26. A blockade must be limited to the ports and coasts belonging to or occupied by the enemy; must not bar access to neutral ports or coasts. A blockade, to be binding, must be effective. A blockade must be applied equally to the ships of all nations.

See also Dec. of Paris, 1856, art. 4; treaties with Bolivia, 1858, art. 18; Colombia (New Granada), 1846, arts. 18, 20; Italy, 1871, arts 13, 14; Norway (*see* Sweden); Sweden, 1783, art. 10.

(For declaration by naval officer, see Form No. 1; for notification to be made to the local authorities of the blockaded region, see Form No. 2.)

EFFECTIVENESS

27. The blockade, to be effective and binding, must be maintained by a force sufficient to render ingress to or egress from the port dangerous. If the blockading vessels be driven away by stress of weather and return thereafter without delay to their station, the continuity of the blockade is not thereby broken. The blockade ceases to be effective if the blockading vessels are driven away by the enemy or if they voluntarily leave their stations, except for a reason connected with the blockade; as, for instance, the chase of a blockade runner.

As the suspension of a blockade is a serious matter, involving a new notification, commanding officers will exercise especial care to preserve the continuity and effectiveness of the blockade.

NOTIFICATION TO NEUTRALS

28. Neutral vessels are entitled to notification of a blockade before they can be made prize for its attempted violation. The character of this notification is not material. It may be actual, as by a vessel of the blockading force, or constructive, as by a proclamation or notice of the government maintaining the blockade, or by common notoriety. (See Form No. 3.)

See also treaties with Bolivia, 1858, art. 20; Colombia (New Granada), 1846, art. 20; Italy, 1871, art. 14; Norway (*see* Sweden); Greece, 1837, art. 16; Prussia, 1828, art. 13; Sweden and Norway, 1827, art. 18.

LIABILITY OF VESSELS

29. Blockade running is a distinct offense which subjects the vessel attempting to commit it, or sailing with intent to commit it, to capture without regard to the nature of her cargo.

30. If a neutral vessel attempting to enter a blockaded port has had notice of the blockade in any way, she shall be captured and sent in for adjudication; but should formal notice not have been given, the rule of constructive knowledge arising from notoriety should be construed in a manner liberal to the neutral. Vessels appearing before a blockaded port, having sailed without notification, are entitled to actual notice by a blockading vessel. (See Form No. 3.) The boarding officer shall enter in the log and the document fixing the vessel's nationality the fact of such notice, the extent of the blockade, the date, the geographical position, and the name of the blockading vessel, verified by his official signature; and shall furnish the master with a copy of the blockade proclamation. The vessel is then to be

set free. Should she again attempt to enter the same or any other blockaded port as to which she has had notice, she is good prize.

31. The liability of a blockade runner to capture and condemnation begins and terminates with her voyage. If there is good evidence that she sailed with intent to evade the blockade, she is liable to capture from the moment she appears upon the high seas. If a vessel has succeeded in escaping from a blockaded port, she is liable to capture at any time before she completes her voyage. But with the termination of the voyage the offense ends.

SPECIAL PRIVILEGES

32. Vessels of war of neutral powers have not the positive right of entry to a blockaded port. They should, however, as a matter of courtesy, when practicable, be allowed free passage to and from a blockaded port. Permission to visit the blockaded port is subject to any conditions as to length of stay or otherwise that the senior officer of the blockade may deem necessary and expedient.

33. In circumstances of urgent distress beyond the possibility of relief by the blockading force, a neutral vessel may be permitted to enter a place under blockade and subsequently to leave it under conditions prescribed by the commanding officer of the blockading force.

SPECIAL RULES

34. Blockading officers shall observe the terms of special rules adopted by the United States Government regarding days of grace and conditions of lading permitted to neutral vessels that find themselves within the limits of blockade at the time the blockade is established.

SECTION IV. *Unneutral Service*

DEFINITION

35. Unneutral service is service rendered by a neutral to a belligerent contrary to international law. It is in its nature indirect or direct.

INDIRECT UNNEUTRAL SERVICE

36. A neutral vessel is guilty of indirect unneutral service and may be sent in for adjudication as a neutral vessel liable to condemnation—

(a) If she specially undertakes to transport individual passengers who are embodied in the armed forces of the enemy and who are en route for military service of the enemy or to a hostile destination, or transmits intelligence in the interest of the enemy whether by radio or otherwise.

(b) If, to the knowledge of the owner, or the charterer, or of the agents thereof, or of the master, she is transporting a military detachment of the enemy, or one or more persons who are embodied in the military or naval service of the enemy and who are en route for military service of the enemy or to a hostile destination, or one or more persons who, during the voyage, lend direct assistance to the enemy, or is transmitting information in the interest of the enemy by radio or otherwise.

See also treaty with China, 1856, art. 26.

37. The above provisions do not apply if, when the vessel is met at sea, she is unaware of the existence of a state of war, or if the master, after becoming aware of the opening of hostilities, has not yet been able to disembark the passengers.

38. The vessel is deemed to be aware of the existence of a state of war if she left an enemy port after the opening of hostilities, or left a neutral port after the publication there of the notification to the neutral power to which the port belongs of the opening of hostilities.

DIRECT UNNEUTRAL SERVICE

39. A neutral vessel is guilty of direct unneutral service and may not only be captured but may be treated as an enemy merchant vessel—

(a) If she takes a direct part in the hostilities;

(b) If she is under the orders or under the control of an agent placed on board by the enemy Government;

(c) If she is wholly chartered by or in the exclusive employment of the enemy Government;

(d) If she is at the time exclusively engaged in, or wholly devoted to, either the transport of enemy troops or in the transmission of information in the interest of the enemy by radio or otherwise.

See also treaty with China, 1856, art. 26.

SECTION V. *Telegraphic Communications*

SUBMARINE CABLES

40. Unless under satisfactory censorship or otherwise exempt, the following rules are established with regard to the treatment of submarine telegraph cables in time of war, irrespective of their ownership.

(a) Submarine telegraph cables between points in territory belonging to or occupied by the enemy or between such territory and territory of the United States are subject to such treatment as the necessities of war may require.

(b) Submarine telegraph cables between points in territory belonging to or occupied by the enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy or at any point outside of neutral jurisdiction, if the necessities of war require.

(c) Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity.

They must likewise be restored and compensation shall be fixed when peace is made.

(d) Submarine telegraph cables between two neutral territories shall be held inviolable and free from interruption.

RADIO TELEGRAPHY

41. The commander of a naval force may regulate, or, if necessary, prohibit, the use of radio apparatus by all vessels within the immediate area of operations of the force under his command. (See Form 4.)

He may take such measures as will assure the effectiveness of the regulation or prohibition, even to the extent of requiring that the apparatus be dismantled, or in case of doubt of the observance of good faith, the apparatus may be seized. As to use of radio apparatus to aid the enemy, see paragraphs 36 and 39.

SECTION VI. *Visit and Search*

WHERE AND WHEN EXERCISED

42. The belligerent right of visit and search, subject to exemptions mentioned in Section VII, may be exercised outside of neutral jurisdiction upon private vessels after the beginning of war in order to determine their nationality, the port of destination and departure, the character of their cargo, the nature of their employment, or other facts which bear on their relation to the war.

See also treaties with Norway (see Sweden) ; Sweden, 1783, art. 12.

METHOD OF EXERCISE

43. The right should be exercised with tact and consideration, and in strict conformity with treaty provisions, where they exist.

See also treaties with Bolivia, 1858, art. 21 ; Colombia (New Granada), 1846, art. 21 ; Italy, 1871, arts. 18, 20 ; Prussia, 1799, art. 15 ; Norway (see Sweden) ; Sweden, 1783, arts. 15, 25.

44. Subject to any special treaty provisions the following procedure is directed: Before summoning a vessel to lie to, a ship of war must hoist her own national flag. The summons shall be made

by firing a blank charge (*coup de semonce*), by other international signal, or by both. The summoned vessel, if a neutral, is bound to stop and lie to, and she should also display her colors; if an enemy vessel, she is not so bound, and may legally even resist by force, but she thereby assumes all risks of resulting damage.

45. If the summoned vessel resists or takes to flight she may be pursued and brought to, by forcible measures, if necessary.

46. When the summoned vessel has brought to, the ship of war shall send a boat with an officer to conduct the visit and search. If practicable, a second officer should accompany the officer charged with the examination. There may be arms in the boat, but the boat's crew shall not have any on their persons. The officer (or officers), wearing side arms, may be accompanied on board by not more than two unarmed men of the boat's crew.

47. The boarding officer shall first examine the ship's papers in order to ascertain her nationality, ports of departure and destination, character of cargo, and other facts deemed essential. If the papers furnish conclusive evidence of the innocent character of vessel, cargo, and voyage, the vessel shall be released; if they furnish probable cause for capture she shall be seized and sent in for adjudication.

48. If the papers do not furnish conclusive evidence of the innocent character of the vessel, the cargo, and voyage, or probable cause for capture, the boarding officer shall continue the examination by questioning the personnel or by searching the vessel or by examining her cargo. If such further examination furnishes satisfactory evidence of innocence, the vessel shall be released; otherwise she shall be seized and sent in for adjudication.

49. The boarding officer must record the facts concerning the visit and search upon the log-book of the vessel visited, including the date when and the position where the visit occurred. This entry in the log must be made whether the vessel is held or not. (See Forms 5, 6, and 7.)

PAPERS

50. The papers which will generally be found on board a private vessel are (see Appendix II):

1. The certificate of registry or nationality.
2. A certified bill of sale, or certificate thereof duly authenticated, in the absence of certificate of registry or nationality, or in the case of a vessel which has recently been transferred from enemy to neutral ownership.
3. The crew list.
4. The passenger list.
5. The log book.

6. The bill of health.
7. The clearance papers.
8. The charter party, if chartered.
9. Invoices or manifests of cargo.
10. Bills of lading.

The evidence furnished by the papers against a vessel is conclusive. Regularity of papers and evidence of the innocence of cargo or destination furnished by them are not necessarily conclusive, and if doubt exists a search of the ship or cargo should be made to establish the facts. If a vessel has deviated far from her direct course, this, if not satisfactorily explained, is a suspicious circumstance warranting search, however favorable the character of the papers.

See also treaties with Bolivia, 1858, art. 22; Colombia (New Granada), 1846, art. 22; Italy, 1871, art. 17; Norway (*see* Sweden); Sweden, 1783, art. 11; Prussia, 1799, art. 14.

SECTION VII. *Limitations on Visit and Search*

CONVOY

51. Neutral vessels under convoy of vessels of war of their own nationality are exempt from search. The commander of the convoy gives orally or in writing, at the request of the commander of a belligerent ship of war, all information regarding the vessels and their cargoes which could be obtained by visit and search.

See also treaties with Bolivia, 1858, art. 23; Colombia (New Granada), 1846, art. 23; Italy, 1871, art. 19; Norway (*see* Sweden); Prussia, 1799, art. 22; Sweden, 1783, art. 12.

52. If the commander of the United States vessel has reason to suspect that the commander of the convoy has been deceived regarding the innocent character of any of the vessels (and their cargoes or voyages) under his convoy, the former officer shall impart his suspicions to the latter. In such a case it is to be expected that the commander of the convoy will undertake an examination to establish the facts. The commander of the convoy alone can conduct this investigation, the officers of the United States visiting vessel can take no part therein.

53. The commander of the convoy may be expected to report the result of his investigation to the commander of the United States vessel. Should that result confirm the latter's suspicions, the former may further be expected to withdraw his protection from the suspected vessel; whereupon she shall be made a prize by the commander of the United States vessel.

54. Any vessel under convoy of a vessel of war of an enemy is liable to capture.

SEARCH OF NEUTRAL MAIL VESSELS

55. The inviolability of certain postal correspondence does not exempt a neutral mail ship from the laws and customs of maritime war as to neutral merchant ships in general.

SECTION VIII. *Neutral or Enemy Character*

CHARACTER OF VESSEL

56. The neutral or enemy character of a private vessel is determined by the neutral or enemy character of the State whose flag the vessel has a right to fly as evidenced by her papers.

See also treaties with Argentina, 1853, art. 7; Belgium, 1875, art. 9; Bolivia, 1858, arts. 15, 22; Colombia (New Granada), 1846, arts. 15, 22; Italy, 1871, arts. 16, 17; Japan, 1894, art. 12; Norway (*see* Sweden); Spain, 1902, art. 11; Sweden, 1783, arts. 7, 11.

TRANSFER OF FLAG BEFORE HOSTILITIES

57. The transfer of a vessel from one flag to another is valid when completed previous to the outbreak of war in which the State of the vendor is a belligerent, provided the transfer is made in accordance with the laws of the State of the vendor and the State of the vendee.

TRANSFER OF FLAG DURING HOSTILITIES

58. The transfer of a private vessel of a belligerent to a neutral flag during war is valid if in accordance with the laws of the State of the vendor and of the vendee, provided that it is made in good faith and is accompanied by a payment sufficient in amount to leave no doubt of good faith; that it is absolute and unconditional, with a complete divestiture of title by the vendor, with no continued interest, direct or indirect, of the vendor, and with no right of repurchase by him; and that the ship does not remain in her old employment.

CHARACTER OF CARGO ¹⁹

59. The neutral or enemy character of merchandise found on board an enemy private vessel is determined by the neutral or enemy commercial domicile of the owner, whether the owner be an individual, a firm, or a corporation. In the absence of proof of the neutral character of goods found on board an enemy vessel, they are presumed to be enemy goods.

60. Articles which are products of the soil of an enemy country and shipped therefrom after the outbreak of war, are impressed

¹⁹ See also Section II "Contraband," and paragraph 70. [Footnote appears in Navy Department print.]

with the enemy character of the territory although the owner may be domiciled or resident in a neutral country.

61. Enemy goods on board an enemy vessel retain their enemy character, notwithstanding any transfer effected after the outbreak of hostilities. If however, prior to capture, a former neutral owner exercises on the bankruptcy of the enemy owner a recognized legal right to recover the goods, they retain their neutral character.

SECTION IX. *Liability to Capture*

ENEMY VESSELS

62. Enemy vessels are liable to capture outside of neutral jurisdiction.

63. The following when innocently employed are exempt from capture:

(a) Cartel ships designated for and engaged in exchange of prisoners.

(b) Vessels charged with religious, scientific, or philanthropic missions.

(c) Properly designated hospital ships.

(d) Vessels exempt by treaty or special proclamation.

See also treaty with Italy, 1871, arts. 12, 14.

(e) Small coast (not deep-sea) fishing vessels and small boats employed in local trade.

65 [*sic*]. The fishing vessels and small boats referred to in article 63 (e) may be subjected to special regulations imposed by the United States naval commander operating in the vicinity. They are liable to capture if such regulations be disobeyed or if they engage in any undertaking prejudicial to United States military operations by land or sea.

NEUTRAL VESSELS

64. A neutral private vessel is in general liable to capture if she—

(a) Attempts to avoid visit and search by flight, but this must be clearly evident; or resists with force.

(b) Presents irregular or fraudulent papers, or lacks necessary papers, or destroys, defaces, or conceals papers. (See for detailed provisions as to papers, paragraph 51; also Appendix II (III).)

(c) Carries contraband, except when permitted by treaty to surrender ("deliver up," "deliver out") the contraband to the captors. (See Forms 8 to 10.)

See also treaties with Bolivia, 1858, art. 19; Colombia (New Granada), 1846, art. 19; Norway (*see* Sweden); Prussia, 1799, art. 13; Sweden, 1783 art. 13.

(*d*) Has broken or has attempted to break a blockade. (See Sec. III.)²⁰

(*e*) Has engaged in unneutral service. (See Sec. IV.)

(*f*) Is under enemy convoy; or under neutral convoy to avoid rightful capture.

65. If a neutral vessel, met at sea with contraband destined to the enemy, is unaware of the existence of a state of war or of a declaration of contraband which applies to her cargo, the vessel shall, as a rule, be sent in for adjudication, and though the cargo may not be liable to condemnation it may be detained or requisitioned. (See Form No. 7.)

66. A vessel is deemed to be aware of the existence of a state of war or of a declaration of contraband if she left a neutral port after sufficient time had elapsed for the publication there of the notification of the opening of hostilities to the neutral power to which the port belongs, or for the publication there of the contraband lists proclaimed by the United States, respectively. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the war began.

FREE SHIPS, FREE GOODS

67. "The neutral flag covers enemy goods with the exception of contraband of war." (Declaration of Paris, 1856, art. 2.)

See also Treaties with Bolivia, 1858, arts. 15, 16; Colombia (New Granada), 1846, arts. 15, 16; Italy, 1871, arts. 12, 16; Norway (see Sweden); Peru, 1856, art. 1; Prussia, 1785, art. 12; Russia, 1854, arts. 1, 2; Sweden, 1783, arts. 7, 14.

68. "Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag." (Declaration of Paris, 1856, art. 3.)

CARRIAGE OF CONTRABAND

69. Contraband, in paragraph 24 (*a*), (*b*), (*c*), and (*d*), is liable to capture if its actual destination is the territory belonging to or occupied by the enemy, or the armed forces of the enemy. It is immaterial whether the carriage of the contraband to such actual destination be direct in the original vessel or involve trans-shipment or transport overland. See paragraph 67 above and references.)

70. Contraband, in paragraph 24 (*e*), is liable to capture if it is actually destined for the use of the enemy government or its armed forces. It is immaterial whether the carriage of contraband be

²⁰ See also treaties with Bolivia, 1858, art. 20; Colombia (New Granada) 1846, art. 20; Greece, 1837, art. 16; Italy, 1871, art. 14; Norway (see Sweden); Prussia, 1828, art. 13; Sweden, 1827, art. 18. [Footnote appears in Navy Department print.]

direct in the original vessel, or involve trans-shipment or transport overland.

PRESUMPTION AS TO DESTINATION

71. A destination for the use of the enemy government or its armed forces referred to in paragraph 70 is presumed to exist if the contraband is consigned—

(a) To enemy authorities.

(b) To a port of equipment or supply of the armed forces of the enemy or other place serving as a base for such armed forces.

(c) To a contractor or agent in enemy territory who, by common knowledge, supplies articles of the kind in question to the enemy authorities.

72. A destination to territory belonging to or occupied by the enemy or to the armed forces of the enemy, referred to in paragraph 69, is presumed to exist if the contraband is consigned "to order," "to order or assigns," or with an unnamed consignee, but in any case going to territory belonging to or occupied by the enemy, or to neutral territory in the vicinity thereof.

UNITED STATES VESSELS IN ENEMY TRADE

73. Any vessel of the United States found engaged in trade of any kind with the enemy without a license so to do from the President of the United States or his duly authorized agent shall be captured and sent in for adjudication. Any vessel of the United States that is found trading under a license issued by the enemy shall be captured and sent in for adjudication.

SECTION X. *Colors to be Displayed on Prize*

74. The act of capture shall be signified by hoisting the United States flag on board the vessel seized.

75. In case the prize is an enemy vessel, the flag of the United States shall be flown at the usual place (peak or staff) over the enemy flag.

76. If the prize is a neutral vessel, the neutral flag shall be flown as usual until she is adjudged to be a lawful prize by a competent court; the flag of the United States, however, shall be exhibited at the fore to indicate that she is for the time in the possession of officers of the United States.

77. Whenever the colors are displayed, the procedure of the two preceding paragraphs shall be followed thereafter during the passage of the prize to the United States port and while under the control of the prize master in such port. (See par. 80, *post.*)

SECTION XI. *Responsibility of Capturing Officer*

RESPONSIBILITY

78. An officer making a capture is held by the courts of the United States to be personally liable in damages unless the capture made by him is for probable cause.²¹

79. Probable cause is defined by the Supreme Court of the United States as follows:

Probable cause exists where there are circumstances sufficient to warrant suspicion, though it may turn out that the facts are not sufficient to warrant condemnation. And whether they are or not can not be determined unless the customary proceedings of prize are instituted and enforced. (Per Chief Justice Fuller in *Olinde Rodriguez*, 174 U. S., 510. 1899.)

... The term "probable cause," according to its usual acceptation, means less than evidence which would justify condemnation; and in all cases of seizure has a fixed and well-known meaning. It imports a seizure made under circumstances which warrant suspicion. (Per Chief Justice Marshall in *Locke v. U. S.*, 7 Cranch, 339. 1813.)

SECTION XII. *Treatment of Vessel, Goods, Postal Correspondence, Officers, Crew, and Other Persons on Board*

SENDING PRIZES IN

80. Except under extraordinary circumstances, prizes shall be sent promptly to a port within the jurisdiction of the United States for adjudication. (See Section XIII.)

See also treaties with Bolivia, 1858, art. 24; Colombia (New Granada), 1846, art. 24; Norway (*see* Sweden); Prussia, 1799, arts. 19, 21; Sweden, 1783, art. 19.

In general, a prize master with a crew shall be sent on board the prize for this purpose.

If for any reason this is impracticable, a prize may be escorted into port by the capturing vessel or by another vessel of war of the United States or of an ally. In this exceptional case the prize shall

²¹ When, in any prosecution commenced on account of the seizure of any vessel, goods, wares, or merchandise made by any collector or other officer under any act of Congress authorizing such seizure, judgment is rendered for the claimant, but it appears to the court that there was reasonable cause of seizure, the court shall cause a proper certificate thereof to be entered, and the claimant shall not in such case be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution: *Provided*, That the vessel, goods, wares, or merchandise be, after judgment, forthwith returned to such claimant or his agent. (Rev. Stat., sec. 970.) [Footnote appears in Navy Department print.]

be directed to lower her flag and to steer according to the orders of the escorting vessel of war. The prize must obey the instructions of the escorting vessel, under pain of forcible measures.

81. The procedure prescribed by the Revised Statutes shall be observed:

SEC. 4515. The commanding officer of any vessel making a capture shall secure the documents of the ship and cargo, including the log book, with all other documents, letters, and other papers found on board, and make an inventory of the same and seal them up and send them, with the inventory, to the court in which proceedings are to be had, with a written statement that they are all the papers found and are in the condition in which they were found; or explaining the absence of any documents or papers or any change in their condition. He shall also send to such court, as witnesses, the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any person found on board whom he may suppose to be interested in, or to have knowledge respecting, the title, national character, or destination of the prize. He shall send the prize, with the documents, papers, and witnesses, under charge of a competent prize master and prize crew, into port for adjudication, explaining the absence of any usual witnesses; and in the absence of instructions from superior authority as to the port to which it shall be sent he shall select such port as he shall deem most convenient, in view of the interests of probable claimants as well as of the captors. If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, a survey shall be had thereon and an appraisalment made by persons as competent and impartial as can be obtained, and their reports shall be sent to the court in which proceedings are to be had; and such property, unless appropriated for the use of the Government, shall be sold by the authority of the commanding officer present, and the proceeds deposited with the Assistant Treasurer of the United States most accessible to such court and subject to its order in the cause.

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SEC. 4617. The prize master shall make his way diligently to the selected port and there immediately deliver to a prize commissioner the documents and papers, and the inventory thereof, and make affidavit that they are the same and are in the same condition as delivered to him, or explaining any absence or change of condition therein, and that the prize property is in the same condition as delivered to him, explaining any loss or damage thereto; and he shall further report to the district attorney and give him all the information in his possession respecting the prize and her capture; and he shall deliver over the persons sent as witnesses to the custody of the marshal and shall retain the prize in his custody until it shall be taken therefrom by process of the prize court.

82. If circumstances permit, it is preferable that the officer making the search should act as prize master.

83. Attention is directed to articles 16 and 17 of the Articles for the Government of the Navy (sec. 1624, Rev. Stat.), which read:

ART. 16. No person in the Navy shall take out of a prize or vessel seized as a prize any money, plate, goods, or any part of the equipment, unless it be for the better preservation thereof, or unless such articles are absolutely needed for the use of any of the vessels or armed forces of the United States, before the same are adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in, in order that judgment may be passed thereon, and every person who offends against this article shall be punished as a court-martial may direct.

ART. 17. If any person in the Navy strips off the clothes of or pillages, or in any manner maltreats any person taken on board a prize, he shall suffer such punishment as a court-martial may adjudge. (Sec. 1624, Rev. Stat., 1878.)

CONVERSION TO PUBLIC USE

84. By the Revised Statutes captured vessels may be taken for the use of the United States. Section 4624, Revised Statutes, reads as follows:

Whenever any captured vessel, arms, munitions, or other material are taken for use of the United States before it comes into the custody of the prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisement, and inventory shall be sent to the court in which proceedings are to be had; and, if taken afterwards, sufficient notice shall first be given to enable the court to have the property appraised for the protection of the rights of the claimants and captors. In all cases of prize property taken for or appropriated to the use of the Government the department for whose use it is taken or appropriated shall deposit the value thereof with the assistant treasurer of the United States nearest to the place of the session of the court, subject to the order of the court in the cause. (Section 4624 R. S., 1878.)

85. While any prize may thus be legally converted to immediate public use, and would be under compelling circumstances, it is inadvisable so to convert neutral property taken as prize, because if the prize court fails to condemn the property indemnification for the conversion to public use may be the subject of a claim.

RELEASE ON VOLUNTARY DELIVERY OF CONTRABAND

86. If, under the provisions of a treaty between the United States and his country, the master of a vessel agrees to deliver and does deliver the contraband cargo to the commander of the ship of war, the vessel, as a rule, shall not be sent in for adjudication. Any contraband cargo so delivered shall be accompanied by an inventory, and a receipt therefor shall be given for the protection of interested

parties. The vessel shall thereupon be released. If circumstances preclude such delivery of the contraband cargo, the vessel should in general be sent in. (See Forms Nos. 8, 9, 10.)

See also treaties with Bolivia, 1858, art. 19; Colombia (New Granada), 1846, art. 19; Norway (*see* Sweden); Prussia, 1799, art. 13; Sweden, 1783, art. 13.

MAIL STEAMERS AND POSTAL CORRESPONDENCE

87. The genuine postal correspondence of neutrals or belligerents, found on board a neutral or enemy ship at sea, is inviolable. If the ship is detained, such postal correspondence is to be forwarded by the captor with the least possible delay.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

88. Neutral mail ships are subject to the laws and customs of maritime war applicable to neutral merchant ships in general.

ENEMY MILITARY PERSONS ON BOARD NEUTRAL VESSELS

89. As to treatment of vessels outside of neutral jurisdiction and carrying persons embodied in the military service of the enemy, unless treaty provisions allow their removal from the neutral vessel and the release of the vessel herself thereupon, see paragraphs 36, 39.

See also treaties with Bolivia, 1858, art. 16; Colombia (New Granada), 1846, art. 15; Italy, 1871, art. 16; Norway (*see* Sweden); Prussia, 1785, art. 12; Sweden, 1783, art. 7.

90. The persons referred to in paragraph 89 must be actually embodied in the military service of the enemy. Reservists or other persons subject to military duty but not formally incorporated in military service are not included.

91. Persons on board captured vessels who are actually embodied in the military forces of the enemy may be made prisoners of war.

92. The captain, officers, and crew of an enemy merchant ship which has resisted capture may be made prisoners of war.

93. The United States may give the same treatment to nationals of enemy or neutral countries who legally come into the power of the United States by capture on the high seas that it gives to enemy or neutral nationals within its territory or jurisdiction.

SECTION XIII. *Destruction of Prizes*

94. An enemy ship made prize may be destroyed by the capturing officer in case of military necessity, when the vessel can not be sent or brought in for adjudication.

95. Engaging in unneutral service as defined in paragraph 39 stamps a neutral vessel with hostile character, and such a neutral vessel made prize may be destroyed by the capturing officer in the case of military necessity, when the vessel can not be sent or brought in for adjudication.

96. Owing to the serious responsibility involved, a neutral vessel *not* engaged in unneutral service as defined in paragraph 39, must not be destroyed by the capturing officer save in case of the gravest military emergency which would not justify him in releasing the vessel or sending it in for adjudication. If circumstances permit, it is preferable to appraise and sell the prize, as provided in section 4615, Revised Statutes . . . rather than to destroy it.²²

97. In no case after a vessel has been brought to may it be destroyed until after visit and search has been made and all persons on board have been placed in safety, and also, if practicable, their personal effects.

All the documents, letters, and papers found on board the prize shall be taken on board the capturing vessel of war and be inventoried and sealed in accordance with the procedure of section 4615, Revised Statutes (see page 28) for delivery to the prize court, with especial view to the protection of the interests of the owners of any innocent neutral cargo on board. All mails on board should be saved so far as possible and practicable. (See par. 39, Form 12, Appendices II, III.)

REPORT OF DESTRUCTION OF PRIZE

98. Every case of destruction of prize shall be reported to the Navy Department at the earliest practicable moment.

SECTION XIV. *Capture of Public Vessels in the Military Service of the Enemy*

99. By the fact of capture a public vessel in the military service of the enemy passes into the possession of the captor's Government, in which title immediately vests. The vessel, therefore, becomes a public vessel belonging to the captor's Government and subject to its disposal. It is unnecessary to send a captured public vessel into port for adjudication. The vessel may be immediately converted to the use of the captor and sent to any port at his convenience, as a public vessel of the United States. The captured personnel shall

²²As to destruction, see also section 4625, Revised Statutes, which reads in part:

"If by reason of the condition of the captured property, or if because the whole has been appropriated to the use of the United States, no part of it has been or can be sent in for adjudication, or if the property has been entirely lost or destroyed, proceedings or adjudication may be commenced. . . ."

[Footnote appears in Navy Department print.]

be made prisoners of war, except the religious, medical, or hospital staff of the ship.

SECTION XV. *Bombardment*

LIMITATIONS ON BOMBARDMENT

100. The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited.

NAVAL BOMBARDMENT

101. The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden.

102. A place can not be bombarded solely because automatic submarine contact mines are anchored off the harbor.

MILITARY WORKS NOT EXEMPT

103. Military works, military or naval establishments, depots of arms or war *matériel*, workshops or plants which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbor, are not, however, included in the foregoing prohibition. The commander of a naval force may destroy them with artillery, after a summons followed by a reasonable delay, if all other means are impossible, and when the local authorities have not themselves destroyed them within the time fixed.

104. The commander incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances.

PRECAUTIONS

105. If military necessity demanding immediate action permits no delay, nevertheless the prohibition to bombard undefended towns holds good, and the commander shall take all requisite measures in order that the town may suffer as little harm as possible.

BOMBARDMENT FOR REQUISITIONS

106. After explicit notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be proceeded with, if the local authorities, after a formal summons has been made to them, decline to comply with requisitions for provisions or supplies necessary for the immediate needs of the naval force before the place in question.

107. These requisitions shall be in proportion to the resources of the place. They shall only be demanded in the name of the commander of the naval force, and they shall, as far as possible, be paid for in cash; if not, they shall be acknowledged by receipts.

NO BOMBARDMENT FOR RANSOM

108. The bombardment of undefended towns, villages, dwellings, or buildings on account of the nonpayment of money contributions is forbidden.

PRELIMINARY MEASURES

109. In bombardments by naval forces all necessary measures must be taken by the commander to spare as far as possible, buildings devoted to religion, to the arts and sciences, or to charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on condition that they are not used at the same time for military purposes.

110. It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large stiff rectangular panels divided diagonally into two colored triangular portions, the upper portion black, the lower portion white.

MILITARY EXIGENCY

111. Unless the military exigencies will not permit the commander of the attacking naval force, before commencing the bombardment, must do his utmost to warn the authorities.

PILLAGE FORBIDDEN

112. It is forbidden to give over to pillage a town or place, even when taken by assault.

SECTION XVI. *Geneva Convention*

113. Officers will be governed by the provisions of Convention III, Hague, 1899, and Convention X, Hague, 1907, for the adaptation to maritime warfare of the principles of the Geneva Convention.

262

*Proclamation Restricting Exports, July 9, 1917*²³

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Congress has enacted, and the President has on the fifteenth day of June, 1917, approved a law which contains the following provisions:

[Here follow sections 1, 2, and 3 of title VII of the Espionage Act of June 15, 1917, printed on page 611.]

²³ Proclamation No. 1385; For. Rel., 1917, supp. 2, p. 903.

And WHEREAS, the public safety requires that succor shall be prevented from reaching the enemy;

Now, therefore I, Woodrow Wilson, President of the United States of America, do hereby proclaim to all whom it may concern that, except at such time or times and under such regulations and orders and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress, the following articles, namely: Coal, coke, fuel oils, kerosene and gasoline, including bunkers; food grains, flour and meal therefrom, fodder and feeds, meat and fats; pig iron, steel billets, ship plates and structural shapes, scrap iron and scrap steel; ferromanganese; fertilizers; arms, ammunition and explosives, shall not, on and after the fifteenth day of July, 1917, be carried out of or exported from the United States or its territorial possessions to Abyssinia, Afghanistan, Albania, Argentina, Austria-Hungary, Belgium, her colonies, possessions or protectorates, Bolivia, Brazil, Bulgaria, China, Chile, Colombia, Costa Rica, Cuba, Denmark, her colonies, possessions or protectorates, Dominican Republic, Ecuador, Egypt, France, her colonies, possessions or protectorates, Germany, her colonies, possessions or protectorates, Great Britain, her colonies, possessions or protectorates, Greece, Guatemala, Haiti, Honduras, Italy, her colonies, possessions or protectorates, Japan, Liberia, Liechtenstein, Luxemburg, Mexico, Monaco, Montenegro, Morocco, Nepal, Nicaragua, the Netherlands, her colonies, possessions, or protectorates, Norway, Oman, Panama, Paraguay, Persia, Peru, Portugal, her colonies, possessions, or protectorates, Roumania, Russia, Salvador, San Marino, Serbia, Siam, Spain, her colonies, possessions or protectorates, Sweden, Switzerland, Uruguay, Venezuela, or Turkey.

The orders and regulations from time to time prescribed will be administered by and under the authority of the Secretary of Commerce, from whom licenses, in conformity with the said orders and regulations, will issue.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this ninth day of July, in the year of our Lord one thousand nine hundred and seventeen and [SEAL] of the independence of the United States of America the one hundred and forty-second.

WOODROW WILSON

By the President,

FRANK L. POLK

Acting Secretary of State.

263

*Statement by the President, July 9, 1917*²⁴

In controlling by license the export of certain indispensable commodities from the United States, the Government has first and chiefly in view the amelioration of the food conditions which have arisen or are likely to arise in our own country before new crops are harvested. Not only is the conservation of our prime food and fodder supplies a matter which vitally concerns our own people, but the retention of an adequate supply of raw materials is essential to our program of military and naval construction and the continuance of our necessary domestic activities. We shall, therefore, similarly safeguard all our fundamental supplies.

It is obviously the duty of the United States in liberating any surplus products over and above our own domestic needs to consider first the necessities of all the nations engaged in war against the Central Empires. As to neutral nations, however, we also recognize our duty. The Government does not wish to hamper them. On the contrary, it wishes and intends, by all fair and equitable means, to cooperate with them in their difficult task of adding from our available surpluses to their own domestic supply and of meeting their pressing necessities or deficits. In considering the deficits of food supplies, the Government means only to fulfill its obvious obligation to assure itself that neutrals are husbanding their own resources and that our supplies will not become available, either directly or indirectly, to feed the enemy.

WOODROW WILSON

264

*The Acting Secretary of State to the Consul General at Rio de Janeiro (Gottschalk)*²⁵

[Telegram]

WASHINGTON, July 17, 1917—5 p. m.

Your July 9th, 5 p. m. You will explain to the British Consul that Department's instructions²⁶ to cooperate with consular officers of the Governments opposed to Germany did not contemplate more than an exchange of information and that therefore until the attitude of this Government with reference to trading with enemy nationals in neutral countries shall have been fully formulated and you shall have received full instructions you cannot take formal part with repre-

²⁴ *The Official Bulletin*, Washington, July 9, 1917 (vol. 1, no. 50), p. 3.

²⁵ File No. 763.72112/3983; For. Rel., 1917, supp. 2, p. 907.

²⁶ See Document 258.

sentatives of Governments opposed to Germany in measures of a commercial nature aimed at German subjects in neutral countries or influence the American Chambers of Commerce to do so. Meanwhile you should keep yourself informally in touch with committees and transmit such information as you may gather about their plans as well as about enemy activity.

POLK

265

*The Exports Council to the Danish Legation*²⁷

MEMORANDUM

As a result of the cumulative effect of military destruction and consumption, diversion of manhood from production, the failure of harvest in various quarters, the destruction by submarines and the isolation of certain markets by belligerent lines, the Allies are now in need of larger supplies of foodstuffs and materials from the United States than our production affords.

Even the endeavors of American people to increase production and to curtail consumption to the utmost degree still leaves a deficiency in the supply of many commodities essential to those engaged with us against the Central Empires.

It is obviously the prime duty of the United States to first furnish food and supplies to the Allies and for this purpose the American people are undertaking the utmost endeavor and self-sacrifice. Therefore, for the United States to undertake the supply of neutrals it must mean in many commodities alternatively either a deprivation of the Allies, further sacrifice upon the part of the American people, or a diversion of labor and productivity from the necessities of war.

The war has, however, been entered upon by the American people not for any national gain, but in the hope that through the sacrifice of its manhood and resources, the integrity of neutral nations can be established free from jeopardy and beyond this, every sense of humanity and uninterrupted friendship gives the American people the greatest concern in the well-being of the people of Denmark.

In consequence it is believed that the American people will undertake further sacrifice and more extraordinary endeavors to increase their exportable balance. Nevertheless, it is but fair that the people of Denmark should exchange services of equal value in promoting the well-being of the people of the United States. Furthermore, it

²⁷ File No. 600.119/333; For. Rel., 1917, supp. 2, p. 908.

The same memorandum, *mutatis mutandis*, to the Netherland, Norwegian, and Swedish Legations.

would seem proper that the sacrifices of the American people should not be directly or indirectly turned to the advantage of the enemy by the people of Denmark. Therefore, in order to secure such arrangements as a safeguard that the sacrifices of the American people shall not have been in vain, it is hoped that the following notes will obtain earnest consideration by the Royal Government.

(a) That every possible effort shall have been made by the Royal Danish Government to stimulate production of foodstuffs, seafood and other commodities within their own borders and to have secured all available supplies from other quarters abroad and to have regulated consumption with the utmost rigidity by the elimination of wastes and excess consumption of every character. It can hardly be expected that super-labor and self-denial will be made by the American people unless the most intense efforts in these directions will also be made by the people of Denmark.

(b) In the situation of insufficient supplies for ourselves and the co-belligerents alone, the American people cannot be expected to part with food supplies other than in such a minimum amount as will make up the deficiency in the food values arising after the most intensive endeavors as above. In the determination of this minimum, it is felt that the pre-war imports are no longer a criterion of the necessities because more intense production and the reduced consumption render such calculations wholly inapplicable. In this sense it appears that the food resources of Denmark should be at once calculated as to their value in protein, fat, and carbo-hydrates, and that the consumption should be calculated upon a standard intake per capita of these fundamental requisites. Upon the completion of these calculations it should be evident the amount of deficiency in each of the three particulars which must be supplied abroad and it will also appear in which of these three great food requisites Denmark produces a surplus. In order to arrive at these calculations the United States Government would be glad to establish an agent to Denmark to confer with the Danish authorities.

(c) In this situation of inadequate supply of commodities it is obvious that the question of price is entirely of secondary importance to the commodities themselves. Furthermore, the possession of these commodities is of the utmost importance in the entire strategy and conduct of the war, and if the American people are to part with their supplies to the prejudice of their own interests and of those people who are enemies of the Central Empires, this service given to the people of Denmark by the people of America cannot be wholly liquidated by the purchase price and that some service in return, either to the American people or to the Allies, of relative value to that afforded by the American people, should be furnished.

(d) It is obvious that the prevention of supplies of all kinds reaching the enemy is of vital interest to the United States, and therefore the shipment of foodstuffs from Denmark to Germany is of the utmost concern to the American people. It appears a right assumption in consequence that the Royal Government will undertake to exclude any suggestion that American protein, fat or carbo-hydrate or other materials, either directly or indirectly, reach Germany from Denmark.

(e) It is held strongly in the United States that conversion to the enemy's use is not alone the direct transmission of original American commodities, but also the conversion, directly or indirectly, into other commodities exported to Germany or used in manufacture of such commodities, or substitution directly or indirectly for products of Denmark which may be exported to Germany. A case in point is the import of feeding stuffs from the United States to Denmark and the re-export of protein and fat values to Germany created by their use. And in fact the re-transmission of food values in these circumstances is even greater disaster to American interest than if the original feeding stuffs were sent straightway to the enemy, as it thus means not only that American products but Danish labor are being supplied to the enemy. On the other hand the American people do not wish to depart from the high standards of humanity it has set throughout the war and is disposed to consider any reasonable and effective method by which Danish products, derived from sources not American, are applied to purely humanitarian purposes of adding to the supply for women and children even in the enemy's territory.

(f) As a result of the large depletion of the food resources of the United States from the 1916 harvest, the United States Government finds that the position of its people between now and the arrival of the new harvest requires its very serious attention and therefore the immediate situation is one requiring instant reduction in the export of supplies to the barest minimum necessitated by the situation of existing stock in Denmark. And in order for the United States Government to cooperate with the Royal Government during this intermediate situation, the United States Government would be glad to have information upon any commodity which it is desired to export:

- (1) The stock of these commodities in Denmark.
- (2) The amount *en route*.
- (3) The amount owned by Denmark or her nationals in the United States and its location.

(g) The United States Government presents the above basis for consideration by the Royal Government and hopes earnestly that

the Royal Government can see its way to fall in therewith, and in the meantime the United States Government wishes to observe:

Pending a mutual arrangement upon the above basis any export of food supplies of any nature to Germany must be taken into account as depleting the supplies available to the people of Denmark and it cannot be expected that such depletion will be considered as part of the deficit to be ultimately supplied from the United States.

[WASHINGTON, *July 24, 1917.*]

266

The Acting Secretary of State to the Ambassador in Great Britain
(Page)²⁸

[Telegram]

WASHINGTON, *July 31, 1917—5 p. m.*

5236. I had a conversation today by appointment with the British Ambassador, Sir Richard Crawford, and Lord Eustace Percy, in regard to the effect of the United States embargo on exports to the European neutrals. Each neutral was taken up in turn and its relations to the Allies and to Germany in respect to exports, imports, trade agreements, military possibilities, etc., were discussed. I pointed out that the United States was about to formulate a policy on the subject, but that it was embarrassed in doing so by not having formal, authoritative statements from the British and French Governments as to certain important points which appear to have been but vaguely or partially touched upon in the memoranda and interviews of members of the Embassies. Indeed, some of the opinions and statements made from time to time seem to me somewhat inconsistent or at variance with each other. It seems that these matters should be cleared up at the earliest moment by frank and full exchange of views. Out of the discussion the following questions arose, upon which I asked the Ambassador to obtain an authoritative expression of views by his Government, for our consideration.

First, what are the agreements Great Britain has with the northern neutrals, and what France has with Switzerland? We have not been furnished with copies of these agreements, but have simply been given general statements regarding them. We feel that we should know exactly the provisions of the agreements which may be broken by our embargo before it is made complete.

Second, is Great Britain willing, and does she desire, to break these agreements with the neutrals? The United States probably would not be willing to appear to cause the Allies to break these agreements, unless it is understood officially that such action is acceptable to and desired by Great Britain and France. On the other hand, the

²⁸ File No. 600.119/313a; For. Rel., 1917, supp. 2, p. 912.

United States would be placed in a peculiar position if it refused to allow wheat, for example, to go to Holland, while Great Britain freely shipped rice to that country under special agreements. If it seems best that the agreements should be terminated, the responsibility should be shared with the United States by the Allies.

Third, are Great Britain, France, and Italy willing to forego the supplies or facilities which they are now obtaining from the neutrals in case these are cut off by the neutrals as a direct or indirect result of the embargo?

Fourth, are the Allies prepared to meet with such aid as the United States could supply at the moment the military situation should Germany attack the neutrals or establish bases on their territory or coasts or otherwise use the neutrals to serve directly its military ends? The responsibility for bringing about so serious a situation and meeting it should be in common.

Fifth, what are the demands which Great Britain and France desire should be made upon the neutrals? Are all exports to Germany to be cut off? Is the use of neutral shipping to be demanded, and to what extent?

The responsibility for the effects of a drastic embargo should be clearly understood before action is taken, the probable effects upon supplies to Germany and the Allies and upon the military situation should be carefully worked out, the preparations necessary to meet and nullify these results, and the extent to which we and the Allies are willing to bear the burden of possible military and naval operations should be duly weighed and decided upon in advance.

I told the Ambassador that I was very anxious to have definite and official answers to these inquiries after they had been considered technically by British authorities to submit to the Export Council before this Government could consider and possibly recommend the drastic demands which it is understood the Allies desire us to make on the European neutrals.

POLK

267

The Secretary of State to the Ministers in Denmark, the Netherlands, Norway, and Sweden ²⁹

[Circular telegram]

WASHINGTON, August 8, 1917—6 p.m.

Mr. Hoover has been carrying on informal discussions with representatives of neutrals adjacent to Germany in connection as to their needs. He is primarily seeking information for the guidance of Export Council. In connection with discussions he gave following memorandum to representatives:

[Here follows memorandum, printed on page 641.]

²⁹ File No. 600.119/332a; For. Rel., 1917, supp. 2, p. 919.

The above memorandum sent for your confidential information and guidance in discussing this question. It will probably be sent to the various neutral governments by their representatives here. No definite policy has as yet been established. Informal discussions with the neutrals still being carried on and this government is securing the views of Great Britain and France as to (1) whether trade between Germany and neutrals should be entirely prohibited; (2) if the United States takes this position whether Great Britain and France will cancel outstanding agreements with neutrals, and (3) whether the allies are prepared to meet such military emergency as may arise as result of cutting off neutrals refusing to [stop] trade with Germany. No definite policy settled.

LANSING

268

*Agreement between the Swiss Federal Government and France, Great Britain, Italy, and the United States Relating to Silks and Silk Goods, August 9, 1917*³⁰

[Translation—Extract]

The Delegates of the American, British, French, Italian and Swiss Governments, assembled at Paris, have at the termination of the conferences held July 30th, August 2nd and 7th, 1917, agreed as follows:

ARTICLE 1

Pursuant to the general prohibition of export adopted by the Entente Powers in regard to silks and silk goods, Article 10, Paragraph C, No. 2 of the Interior Regulations of the SSS is amended as follows:

"*Silk Tissues and Goods*, manufactured in Switzerland, enumerated here below:—

[Here follows the enumeration.]

"The *aggregate* exportation of all these articles from Switzerland to enemy states may not exceed *2,500 quintals per annum*, which will be apportioned at the rate of *625 quintals per quarter*."

The Federal Government will immediately and absolutely prohibit the exportation from Switzerland of all silken goods other than those mentioned in the new article 10, Paragraph C-2, irrespective of their origin.

ARTICLE 2

The apportionments of imports allotted to Switzerland for silks and silk goods are established as follows:

[Here follow the tabulated apportionments.]

³⁰ File No. 600.001/141; For. Rel., 1917, supp. 2, p. 1172.

ARTICLE 3

The above provisions shall take effect from August 15th 1917.

The Federal Government reserves to itself the right to renounce them if, within a period of one month, the experts of the Allied Governments have not made arrangements to add to Paragraph 10-C-2 of the SSS Regulations a certain number of the articles proposed by the Swiss Delegates, presenting no military importance but of particular interest for Swiss industry. (See the Minutes of the Meeting of August 2nd, 1917.³¹)

During the month in the course of which the Federal Government reserves to itself the right to renounce the agreement, the quantities of silk authorized by the Allies to enter Switzerland shall be fixed at one twelfth of the annual apportionments.³²

Made at Paris in five originals, signed by the Representatives of the five Contracting Governments, August 9th, 1917.

<i>United States of America</i>	ROBERT WOODS BLISS
<i>France</i>	D. COCHIN
<i>Great Britain</i>	JOSEPH ADDISON J. T. MEADOWS SMITH
<i>Italy</i>	DELL 'ABBADESSA
<i>Switzerland</i>	GROBET-ROUSSY A. CAILLER ERNST LAUR HEER

269

*Executive Order Establishing an Exports Administrative Board and an Exports Council, August 21, 1917*³³

By virtue of authority vested in me by Title VII of the Act approved June 15, 1917, entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage and better to enforce the criminal laws of the United States, and for other purposes":

I hereby establish an Exports Administrative Board³⁴ to be composed of a representative respectively of the Secretary of State, the

³¹ Not printed.

³² Switzerland later renounced this agreement and it was replaced by one of Sept. 4 which is essentially the same, except that the Swiss ration is increased (File No. 600.001/166). The agreement of Sept. 4 went into effect in November (File No. 600.001/175½).

³³ Executive Order No. 2687-A; For. Rel., 1917, supp. 2, p. 926.

³⁴ This board was actually already in existence as a committee of the Exports Council, established by decisions of June 26 and July 3.

Secretary of Agriculture, the Secretary of Commerce, the Food Administrator, and the United States Shipping Board, and I hereby vest in the said Administrative Board the executive administration of all instructions issued by the President under said Title VII and of the proclamations thereunder, and the said Administrative Board is hereby authorized and directed to take such measures as may be necessary to administer and execute the same and to grant or refuse export licenses thereunder, in accordance with those instructions.

I hereby establish an Exports Council, to be composed of the Secretary of State, the Secretary of Agriculture, the Secretary of Commerce, the Food Administrator, and the Chairman of the Shipping Board, and I hereby authorize and direct the said Exports Council, thus constituted, to act in an advisory capacity upon such matters, under this Act, as may be referred to them by the President or the Administrative Board.

This order shall supersede the Executive Order of June 22, 1917,³⁵ and become effective August 27, 1917.

WOODROW WILSON

THE WHITE HOUSE,
21 August, 1917.

270

*Proclamation Further Restricting Exports, August 27, 1917*³⁶

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Congress has enacted, and the President has on the fifteenth day of June 1917, approved a law which contains the following provisions:

[Here follow sections 1, 2, and 3 of title VII of the Espionage Act of June 15, 1917, printed on page 611.]

NOW, THEREFORE, I, WOODROW WILSON, PRESIDENT OF THE UNITED STATES OF AMERICA, DO HEREBY PROCLAIM to all whom it may concern that the public safety requires that, except at such time or times, and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress, the following articles, namely: all kinds of arms, guns, ammunition and explosives, machines for their manufacture or repair, component parts thereof, materials or ingredients used in their manufacture, and

³⁵ Document 259.

³⁶ Proclamation No. 1391; For. Rel., 1917, supp. 2, p. 933.

all articles necessary or convenient for their use; all contrivances for or means of transportation on land or in the water or air, machines used in their manufacture or repair, component parts thereof, materials or ingredients used in their manufacture, and all instruments, articles and animals necessary or convenient for their use; all means of communication, tools, implements, instruments, equipment, maps, pictures, papers and other articles, machines and documents necessary or convenient for carrying on hostile operations; coin, bullion, currency, evidences of debt, and metal, materials, dies, plates, machinery and other articles necessary or convenient for their manufacture; all kinds of fuel, food, food-stuffs, feed, forage and clothing, and all articles and materials used in their manufacture; all chemicals, drugs, dye-stuffs and tanning materials; cotton, wool, silk, flax, hemp, jute, sisal and other fibres and manufactures thereof; all earths, clay, glass, sand and their products; hides, skins and manufactures thereof; non-edible animal and vegetable products; machinery, tools and apparatus; medical, surgical, laboratory and sanitary supplies and equipment; all metals, minerals, mineral oils, ores, and all derivatives and manufactures thereof; paper pulp, books and printed matter; rubber, gums, rosins, tars and waxes, their products, derivatives and substitutes, and all articles containing them; wood and wood manufactures; coffee, cocoa, tea and spices; wines, spirits, mineral waters and beverages: shall not, on and after the 30th day of August in the year One Thousand Nine Hundred and Seventeen, be exported from or shipped from or taken out of the United States or its territorial possessions to Albania, Austria-Hungary, that portion of Belgium occupied by the military forces of Germany, Bulgaria, Denmark, her colonies, possessions or protectorates, Germany, her colonies, possessions or protectorates, Greece, Leichtenstein, Luxembourg, The Kingdom of The Netherlands, Norway, Spain, her colonies, possessions or protectorates, Sweden, Switzerland or Turkey (excluding any portion of the foregoing occupied by the military forces of the United States or the nations associated with the United States in the war), or any territory occupied by the military forces of Germany or her allies; and

I DO HEREBY FURTHER PROCLAIM to all whom it may concern that the public safety requires that, except at such time or times, and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress, the following articles, namely: coal; coke; fuel oils, lubricating oils, hand-lantern oil, naptha, benzine, red oil, kerosene and gasoline; all bunkers; food grains, flour and meal therefrom, corn flour, barley, rice flour, rice, oat meal and rolled

oats; fodder and feeds, oil-cake, oil-meal cake, malt and peanuts; all meats and fats, poultry, cottonseed oil, corn oil, copra, desiccated cocoanuts, butter, fresh, dried and canned fish, edible or inedible grease of animal or vegetable origin, linseed oil, lard, tinned milk, peanut oil and butter, rapeseed oil, tallow, tallow candles and stearic acid; sugar, glucose, syrup and molasses; pig iron, ferro-silicon and spiegeleisen; steel ingots, billets, blooms, slabs and sheet bars; iron and steel plates, including ship, boiler, tank and all other iron and steel plates one-eighth of an inch thick and heavier, and wider than six inches; iron and steel structural shapes, including beams, channels, angles, tees and zees of all sizes; fabricated structural iron and steel, including beams, channels, angles, tees, zees and plates, fabricated and shipped knocked down; scrap iron and scrap steel; ferro-manganese; tool steel, high-speed steel and alloy steels and machine tools; steel-hardening materials; fertilizers, including cattle and sheep manure, nitrate of soda, poudrette, potato manure, potassium salts, land plaster, potash, cyanamide, phosphoric acid, phosphate rock, super-phosphate, chlorate of potash, bone meal, bone flour, ground bone, dried blood, ammonia and ammonia salts, acid phosphates, guano, humus, hardwood ashes, soot, anhydrous ammonia; aeronautical machines and instruments, their parts and accessories thereof; arms and ammunition; all explosives, nitrate of potash, rosin, saltpetre, turpentine, ether, alcohol, sulphur, sulphuric acid and its salts, acetone, nitric acid and its salts, benzol and its derivatives, phenol (carbolic acid) and its derivatives, toluol and its derivatives, mercury and its salts, glycerine, potash and its salts, all cyanides and films; carrier and other pigeons; anti-aircraft instruments, apparatus and accessories; all radio and wireless apparatus and its accessories; optical glass, optical instruments and reflectors; cotton and cotton linters; wool, wool rags, wool and khaki clippings and wool products; flax, sisal, jute, hemp and all manufactures thereof; hides, skins, leather, leather belting, sole and upper leather, leather boots and shoes, harness and saddles and leather clothing; soap and soap powders; all engines and motors operated by steam, gas, electricity or other motive power and their accessories; metal and wood-working machinery; oil well casing, oil well drilling implements and machinery and the accessories thereof; steam boilers, turbines, condensers, pumps and accessories thereof; all electrical equipment; crucibles; emery, emery wheels, carborundum and all artificial abrasives; copper, including copper ingots, bars, rods, plates, sheets, tubes, wire and scrap thereof; lead and white lead; tin, tin plate, tin cans and all articles containing tin; nickel, aluminum, zinc, plumbago and platinum; news-paper, print-paper, wood pulp and cellulose; ash, spruce, walnut, mahogany, oak and birch woods; and industrial diamonds: shall not, on and after the 30th day of August in the year

One Thousand Nine Hundred and Seventeen, be exported from, shipped from or taken out of the United States or its territorial possessions to Abyssinia, Afghanistan, Argentina, that portion of Belgium not occupied by the military forces of Germany or the colonies, possessions or protectorates of Belgium, Bolivia, Brazil, China, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, France, her colonies, possessions or protectorates, Guatemala, Haiti, Honduras, Italy, her colonies, possessions or protectorates, Great Britain, her colonies, possessions or protectorates, Japan, Liberia, Mexico, Monaco, Montenegro, Morocco, Nepal, Nicaragua, the colonies, possessions or protectorates of The Netherlands, Oman, Panama, Paraguay, Persia, Peru, Portugal, her colonies, possessions or protectorates, Roumania, Russia, Salvador, San Marino, Serbia, Siam, Uruguay, Venezuela (excluding any portion of the foregoing occupied by the military forces of Germany or her allies), or any territory occupied by the military forces of the United States or by the nations associated with the United States in the war.

The regulations, orders, limitations and exceptions prescribed will be administered by and under the authority of the Exports Administrative Board, from whom licenses, in conformity with said regulations, orders, limitations and exceptions, will issue.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the District of Columbia, this 27th day of August in the year of our Lord One Thousand Nine Hundred and
[SEAL] Seventeen and of the Independence of the United States of America the One Hundred and Forty-second.

WOODROW WILSON

By the President,
ROBERT LANSING,
Secretary of State.

271

*The Secretary of State to Diplomatic Officers in Certain Countries*³⁷

[Circular telegram]

WASHINGTON, August 27, 1917.

Give immediate publicity following. President today issued proclamation concerning control exports from America giving lists articles which may be exported only under license under two cate-

³⁷ File No. 600.119/356a; For. Rel., 1917, supp. 2, p. 937.

This telegram was sent to the diplomatic representatives in Great Britain, France, Switzerland, Sweden, the Netherlands, Denmark, Italy, Russia, Japan, China, Greece, and all Latin American countries except Santo Domingo and Haiti.

gories, first, exports to the enemy and his allies and to neutral countries of Europe and secondly to all other countries. Proclamation is accompanied by following explanatory statement by the President

"The purpose and effect of this proclamation is not export prohibition but merely export control. It is not the intention to interfere unnecessarily with our foreign trade but our own domestic needs must be adequately safeguarded and there is the added duty of meeting the necessities of all the nations at war with the Imperial German Government. After those needs are met it is our wish and intention to minister to the needs of the neutral nations as far as our resources permit. This task will be discharged without other than the very proper qualification that the liberation of our surplus products shall not be made the occasion of benefit to the enemy either directly or indirectly. The two lists have been prepared in the interests of facility and expediency. The first list, applicable to the enemy and his allies and to the neutral countries of Europe brings under control practically all articles of commerce while the second list applicable to all the other countries of the world makes only a few additions to the list of commodities controlled by the proclamation of July 9th 1917. It is obvious that a closer supervision and control of exports is necessary with respect to those European neutrals within the sphere of hostilities than is required for those countries farther removed. The establishment of these distinctions will simplify the administrative processes and enable us to continue our policy of minimizing the interruption of trade. No licenses will be necessary for the exportation of coin bullion currency and evidences of indebtedness until required by regulations to be promulgated by the Secretary of the Treasury in his discretion Woodrow Wilson"

LANSING

272

*Resolution of the Exports Administrative Board, August 30, 1917*³⁸

RESOLVED that the following instructions are hereby given to the Director of the Bureau of Export Licenses: . . .

(b) All licenses to export controlled commodities to Norway, Holland, Denmark and Sweden are to be withheld for the present and no applications for such licenses are to be referred to any of the members of the board except upon their special request, provided, however, that applications for licenses to export food to Norway shall be brought to Mr. White's attention.

273

*Instructions of the Exports Administrative Board, August 31, 1917*³⁸

On motion made and seconded, the board adopted the following as their instructions with respect to the granting of bunker licenses:

³⁸ War Trade Board Files; For. Rel., 1917, supp. 2, 939.

Spain. Ships destined for Spain, regardless of the flag, should be given bunker licenses for the outward voyage only.

Danish and Dutch Colonies. Bunkers shall be granted to steamers going to Danish and Dutch colonies, regardless of the flag of the vessel, except where the destination is Iceland or the Faroe Islands, applications for which must first be approved by the board.

Greece. Bunker licenses may be granted freely to vessels going to Greece, but for the outward voyage only.

Norway, Sweden, Denmark and Holland. No bunker licenses shall be granted to any vessel except subject to the approval of the board where vessels are destined for Norway, Sweden, Denmark and Holland, regardless of the flag flown, except that passenger vessels not carrying cargo may have bunker licenses.

Neutral vessels for South America. Vessels flying the Swedish, Danish, Norwegian, Dutch or Spanish flag, destined for South America, shall be granted bunker licenses provided the steamer agrees to return directly to the United States. Vessels flying these flags, not destined for South America, or not returning direct to the United States, shall be referred to the board.

The foregoing remarks do not apply to vessels flying the flag of the Belgian Relief Commission, to which vessels licenses shall always be granted freely.

No publicity shall be given the foregoing instructions, but they shall be transmitted to the collectors of the ports for their guidance.

274

*Proclamation Restricting Exports of Coin, Bullion, and Currency, September 7, 1917*³⁹

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Congress has enacted, and the President has on the fifteenth day of June, 1917, approved a law which contains the following provisions:

[Here follow sections 1, 2, and 3 of title VII of the Espionage Act of June 15, 1917, printed on page 611.]

AND WHEREAS the President has heretofore by proclamation, under date of the twenty-seventh day of August in the year One Thousand Nine Hundred and Seventeen, declared certain exports in time of war unlawful, and the President finds that the public safety requires that such proclamation be amended and supplemented in respect to the articles hereinafter mentioned;

³⁹ Proclamation No. 1302; For. Rel., 1917, supp. 2, p. 943.

NOW, THEREFORE, I, WOODROW WILSON, PRESIDENT OF THE UNITED STATES OF AMERICA, DO HEREBY PROCLAIM to all whom it may concern that the public safety requires that, except at such time or times, and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress, the following articles, namely: coin, bullion and currency: shall not, on and after the 10th day of September in the year One Thousand Nine Hundred and Seventeen, be exported from or shipped from or taken out of the United States or its territorial possessions to Albania, Austria-Hungary, Belgium, Bulgaria, Denmark, her colonies, possessions or protectorates, Germany, her colonies, possessions or protectorates, Greece, Liechtenstein, Luxembourg, The Kingdom of the Netherlands, Norway, Spain, her colonies, possessions or protectorates, Sweden, Switzerland or Turkey, Abyssinia, Afghanistan, Argentina, Bolivia, Brazil, China, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, France, her colonies, possessions or protectorates, Guatemala, Haiti, Honduras, Italy, her colonies, possessions or protectorates, Great Britain, her colonies, possessions or protectorates, Japan, Liberia, Mexico, Monaco, Montenegro, Morocco, Nepal, Nicaragua, the colonies, possessions or protectorates of The Netherlands, Oman, Panama, Paraguay, Persia, Peru, Portugal, her colonies, possessions or protectorates, Roumania, Russia, Salvador, San Marino, Serbia, Siam, Uruguay, or Venezuela.

The regulations, orders, limitations and exceptions prescribed will be administered by and under the authority of the Secretary of the Treasury, from whom licenses in conformity with said regulations, orders, limitations and exceptions will issue.

Except as hereby amended and supplemented, the above mentioned proclamation under date of August 27, 1917, shall continue in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the District of Columbia, this 7th day of September in the year of our Lord One Thousand Nine Hundred and [SEAL] Seventeen and of the Independence of the United States of America the One Hundred and Forty-second.

WOODROW WILSON

By the President,
ROBERT LANSING,
Secretary of State.

275

*Public Statement by the Exports Administrative Board, September
13, 1917*⁴¹

[Extract]

The Exports Administrative Board has issued a list of articles for which licenses are required for shipments destined to countries other than the enemy or his allies or the neutral countries of Europe.

The board has determined that every article of commerce is included in the list of articles mentioned in the first division of the President's proclamation of August 27,⁴² and will therefore require licenses when shipped to Albania, Austria-Hungary, . . .

For the further information of shippers the Exports Administrative Board has authorized the publication of the following list comprising articles which have already been determined to be included under the general headings mentioned in the second division of the proclamation of August 27, dealing with shipments destined to all other countries not mentioned above. Additions may be made to this list if it is determined that other articles are properly included in these general headings.

Export license is required at present for the following articles:
[List of approximately 800 items omitted.]

276

*Public Statement by the Exports Administrative Board, September
29, 1917*⁴³

The Exports Administrative Board, in accordance with requests made by the United States Shipping Board and by the Navy Department, has instructed the Director of the Bureau of Export Licenses not to grant licenses for any proposed shipments by sailing vessels going through the war zone. It is, of course, obvious that steamers can navigate the war zone with less danger than slow-sailing craft, and sailing ships, if used in safer waters, would to an extent release steam vessels now used in such waters.

The attention of shippers is, therefore, called to the fact that clearance will be refused sailing vessels destined to proceed through the war zone regardless of the fact that the goods themselves may have already been licensed. Licenses will be granted in the future for shipments to European countries only on condition that the goods are

⁴¹ *The Official Bulletin*, Washington, Sept. 13, 1917 (vol. 1, no. 106), p. 3.

⁴² Document 270.

⁴³ *The Official Bulletin*, Washington, Sept. 29, 1917 (vol. 1, no. 120), p. 1.

to be shipped by some vessel other than a sailing vessel. The Board will revoke licenses covering goods to be shipped through the war zone if any shippers attempt to ship them by sailing vessel.

277

*The Acting Secretary of State to the Ambassador in Great Britain (Page)*⁴⁴

[Telegram]

WASHINGTON, September 29, 1917—7 p. m.

5511. Your telegram September 17. Except for certain quantity of food grains which were allowed to go to Sweden and Norway as result of agreements made with governments those countries, whereby a double quantity of food grains were released for Belgian Relief, and some few other special isolated cases of shipments to Norway, nothing is going to Scandinavian countries.

POLK

278

*Public Statement by the Exports Administrative Board, October 5, 1917*⁴⁵

The Exports Administrative Board, in formulating its policy with regard to granting bunkers to neutral vessels, are actuated solely by the desire to prevent commodities from going to border neutrals for export to Germany. At the present time the Exports Administrative Board will not permit commodities that may benefit the enemy, directly or indirectly, to be exported from this country to the border neutrals because the board has not yet been able to elicit the information which will enable it to determine whether such commodities will so benefit the enemy; and in accordance with this policy the board feels that consistency demands that it should not grant bunker licenses for a vessel which is bound for a border neutral and carries a cargo which may benefit the enemy, notwithstanding such cargo has originated in another country.

In other words, although the board has no means and does not purpose to prevent trade between other neutrals and the border neutrals, it is, nevertheless, in a position to state that if vessels wish to use the coal of the United States they should not be permitted to apply our coal to the prosecution of a voyage which will result in supplying or assisting to supply the enemy with foodstuffs or feedstuffs or any other commodities.

⁴⁴ File No. 600.119/401; For. Rel., 1917, supp. 2, p. 955.

⁴⁵ *The Official Bulletin*, Washington, Oct. 5, 1917 (vol. 1, no. 125), p. 1.

Numerous cases have been presented to the board where vessels have touched at a United States port *en route* to a border neutral and carrying cargo which did not originate in the United States, but which is destined for a border neutral and will undoubtedly accrue to the benefit of the enemy. This causes a serious embarrassment, and to avoid such embarrassment the board has adopted a policy calculated to prevent such cases arising in the future. This policy consists in stipulating that a vessel *en route* to non-European neutrals which touches at a United States port for bunker coal shall not be permitted to have bunker coal for the voyage unless she will agree to return to the United States with a cargo which would be approved by the board or which is destined for a country other than a border neutral.

The board is anxious to assist neutral vessels in continuing their service to South American and other non-European ports; but pending the receipt of the complete information which has been solicited from the border neutrals with respect to their resources and requirements the board feels that it can properly pursue no other policy than the one outlined above.

279

*Extract from the Trading with the Enemy Act of October 6, 1917*⁴⁶

AN ACT To define, regulate, and punish trading with the enemy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Trading with the enemy Act."

SEC. 2. That the word "enemy," as used herein, shall be deemed to mean, for the purposes of such trading and of this Act—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States,

⁴⁶ 40 Stat. 411.

wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The words "ally of enemy," as used herein, shall be deemed to mean—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation which is an ally of a nation with which the United States is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "ally of enemy."

The word "person," as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

The words "United States," as used herein, shall be deemed to mean all land and water, continental or insular, in any way within the jurisdiction of the United States or occupied by the military or naval forces thereof.

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

The words "end of the war," as used herein, shall be deemed to mean the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war" within the meaning of this Act.

The words "bank or banks," as used herein, shall be deemed to mean and include national banks, State banks, trust companies, or other banks or banking associations doing business under the laws of the United States, or of any State of the United States.

The words "to trade," as used herein, shall be deemed to mean—

(a) Pay, satisfy, compromise, or give security for the payment or satisfaction of any debt or obligation.

(b) Draw, accept, pay, present for acceptance or payment, or indorse any negotiable instrument or chose in action.

(c) Enter into, carry on, complete, or perform any contract, agreement, or obligation.

(d) Buy or sell, loan or extend credit, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.

(e) To have any form of business or commercial communication or intercourse with.

SEC. 3. That it shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this Act, to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: *Provided, however,* That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section sixteen of this Act.

SEC. 11. Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: *Provided, however,* That no preference shall be given to the ports of one State over those of another.

280

*The Secretary of State to the Ambassador in Great Britain (Page)*⁴⁷

[Circular telegram]

WASHINGTON, October 6, 1917—6 p.m.

The attention of the Department has been called to a statement appearing in the press in regard to the intentions of this Government in connection with the so-called world-wide embargo against neutrals. There is no basis whatever for any statement which implies that any final decision has been reached by the Exports Administrative Board. The matter is still under discussion with the neutrals and with the foreign governments associated with us in the war.

Press despatches further state that it is understood that the United States has urged upon Great Britain, for some time, the necessity for taking stringent measures controlling exports similar to those adopted by this Government and that Great Britain has consented to

⁴⁷ File No. 600.119/415a; For. Rel., 1917, supp. 2, p. 960.

The same telegram to the diplomatic representatives in Denmark, the Netherlands, Norway, Spain, Sweden, and Switzerland.

abrogate all of its trade agreements with the northern neutrals in line with suggestions of this Government.

It must be understood that though the embargo question is being considered jointly, any action taken by Great Britain or France will be based entirely on their own judgment after consultation and not at the dictation of this Government. Department does not wish the peoples and the governments of neutral countries to gain the impression that this Government is dictating to England and France an embargo policy hostile to neutral countries. As a matter of fact, England has been urging us to adopt even a stricter control than we have been willing to sanction. This Government is quite prepared to assume full responsibility for such restrictive measures as it may be called upon to enforce. These will in every case be dictated by necessity with all possible regard for justice and for the feelings of neutrals.

The Department is informed that Great Britain has terminated certain agreements with neutral countries covering exports from Great Britain to those countries. It is stated that this action was taken for the purpose of clearing the way for new arrangements made necessary by changed conditions since the entry of the United States into the war.

The Export Board states that one reason why a final policy has not as yet been decided upon by this Government is the failure of the Board to obtain information from the Governments of certain northern neutrals repeatedly requested as to the resources and requirements of the northern neutrals and other information necessary for intelligent action.

The efforts of this Government are aimed (1) at preventing aid going to the enemy as a result of the release of shipments by this Government to neutrals and (2) at securing the cooperation of such neutrals in the furnishing of their products needed by this country or those associated with us in the war. There is absolutely no ground for conjecture to the effect that this Government is influenced by a desire to hamper neutrals in their normal life or inflict upon them any hardships not necessarily resulting from the execution of the aims outlined above. On the contrary our ancient bonds of friendship, our selfish interest and our inclinations prompt us to render them as much aid as possible in the present difficult conditions.

It should be borne in mind that an essential factor in determining this country's policy towards European neutrals is the satisfactory settlement and utilization of neutral tonnage now situated in our ports. The withdrawal from active service of these ships complicates the entire question and imposes upon this Government the need of stricter measures to meet the situation.

Your reports relating to the questions of embargo are very helpful and should be continued and made as complete as possible.

The Department will keep you informed on questions connected with the embargo policy. Negotiations are continuing daily and most of these are oral and tentative and you will not be advised of them unless the Department considers them definite enough to be of assistance to you.

LANSING

281

*Authorization of the Exports Administrative Board, October 9, 1917*⁴⁸

After a discussion, the board authorized the director [of the Bureau of Export Licenses] to instruct the collectors of customs that, under the law, no vessel should be permitted to clear from a United States port without a license for her cargo, bunker fuel, sea stores and ship's stores (but only to the extent that the same are subject to license under the first division or second division, as the case may be, of the proclamation of August 27, 1917), notwithstanding that such cargo, bunker fuel, sea stores or ship's stores were not taken on board at a United States port—the fact that they have been brought into a United States harbor being sufficient to subject them to the operation of the statute.^{48a}

282

*Executive Order Vesting Power and Authority in Designated Officers and Making Rules and Regulations under the Trading with the Enemy Act and Title VII of the Espionage Act, October 12, 1917*⁴⁹

By virtue of the authority vested in me by "An Act to Define, Regulate and Punish Trading with the Enemy and for Other Pur-

⁴⁸ War Trade Board Files; For. Rel., 1917, supp. 2, p. 962.

^{48a} Reference may be made to the following statement contained in the opinion rendered by the Court of Claims in the case arising from the detention by the United States in 1917 and 1918 of the Netherland steamship *Zeelandia*:

"To hold that the espionage act applied to a situation, such as was the situation in regard to the *Zeelandia*, in which a vessel of a neutral, friendly power was about to depart from a port of the United States, having on board only cargo and stores loaded outside the United States and only temporarily within its confines, such cargo being consigned to ports outside of the United States, the vessel having neither cargo nor stores loaded within the United States nor out of the general mass of goods of the United States would, in our opinion, not only unduly extend the language of the act but would raise grave questions as to whether or not the act was in conflict with the rights of the neutral vessel under international law. We hold that such was not the intent of the Congress, and that no provision of the espionage act applied to the *Zeelandia* or justified the detention of the vessel." (Royal Holland Lloyd v. The United States, 73 C. Cls. 722, 740.)

⁴⁹ Executive Order No. 2729-A; For. Rel., 1917, supp. 2, p. 963.

poses," approved October 6, 1917, and by Title VII of the Act approved June 15, 1917, entitled "An Act to Punish Acts of Interference with the Foreign Relations, the Neutrality and the Foreign Commerce of the United States, to Punish Espionage and Better to Enforce the Criminal Laws of the United States and for Other Purposes," (hereinafter designated as the Espionage Act), I hereby make the following orders and rules and regulations:

WAR TRADE BOARD

I. I hereby establish a War Trade Board to be composed of representatives, respectively, of the Secretary of State, of the Secretary of the Treasury, of the Secretary of Agriculture, of the Secretary of Commerce, of the Food Administrator, and of the United States Shipping Board.

II. I hereby vest in said Board the power and authority to issue licenses under such terms and conditions as are not inconsistent with law, or to withhold or refuse licenses, for the exportation of all articles, except coin, bullion or currency, the exportation or taking of which out of the United States may be restricted by proclamations heretofore or hereafter issued by me under said Title VII of the Espionage Act.

III. I further hereby vest in said War Trade Board the power and authority to issue, upon such terms and conditions as are not inconsistent with law, or to withhold or refuse, licenses for the importation of all articles the importation of which may be restricted by any proclamation hereafter issued by me under Section 11 of the Trading with the Enemy Act.

IV. I further hereby vest in said War Trade Board the power and authority not vested in other officers by subsequent provisions of this order, to issue, under such terms and conditions as are not inconsistent with law, or to withhold or refuse, licenses to trade either directly or indirectly with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade directly or indirectly for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

V. I further hereby vest in said War Trade Board the power and authority, under such terms and conditions as are not inconsistent with law, to issue to every enemy or ally of enemy, other than enemy or ally of enemy insurance or reinsurance companies, doing business within the United States through an agency or branch office, or otherwise, applying therefor within thirty days of October 6, 1917, licenses temporary or otherwise to continue to do business, or said Board may withhold or refuse the same.

VI. And I further hereby vest in said War Trade Board the executive administration of the provisions of Section 4(b) of the Trading with the Enemy Act relative to granting licenses to enemies and enemy allies to assume or use other names than those by which they were known at the beginning of the war. And I hereby authorize said Board to issue licenses not inconsistent with the provisions of law or to withhold or refuse licenses to any enemy, or ally of enemy, or partnership of which an enemy or ally of enemy is a member or was a member at the beginning of the war, to assume or use any name other than that by which such enemy or ally of enemy or partnership was ordinarily known at the beginning of the war.

VII. I hereby revoke the executive order of August 21, 1917, creating the Exports Administrative Board. All proclamations, rules, regulations and instructions made or given by me under Title VII of the Espionage Act and now being administered by the Exports Administrative Board are hereby continued, confirmed and made applicable to the War Trade Board, and all employees of the Exports Administrative Board are hereby transferred to and constituted employees of the War Trade Board in the same capacities, and said War Trade Board is hereby authorized to exercise without interruption, the powers heretofore exercised by said Exports Administrative Board.

VIII. The said War Trade Board is hereby authorized and empowered to take all such measures as may be necessary or expedient to administer the powers hereby conferred. And I hereby vest in the War Trade Board the power conferred upon the President by Section 5(a) to make such rules and regulations, not inconsistent with law, as may be necessary and proper for the exercise of the powers conferred upon said Board.

WAR TRADE COUNCIL

IX. I hereby establish a War Trade Council to be composed of the Secretary of State, Secretary of the Treasury, Secretary of Agriculture, Secretary of Commerce, the Food Administrator and the Chairman of the Shipping Board, and I hereby authorize and direct the said War Trade Council thus constituted to act in an advisory capacity in such matters under said Acts as may be referred to them by the President or the War Trade Board.

SECRETARY OF THE TREASURY

X. I hereby vest in the Secretary of the Treasury the executive administration of any investigation, regulation or prohibition of any transaction in foreign exchange, export or earmarking of gold or silver coin, or bullion or currency, transfers of credit in any form

(other than credits relating solely to transactions to be executed wholly within the United States) and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, or between residents of one or more foreign countries, by any person within the United States; and I hereby vest in the Secretary of the Treasury the authority and power to require any person engaged in any such transaction to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters or other papers in connection therewith in the custody or control of such person, either before or after such transaction is completed.

XI. I further hereby vest in the Secretary of the Treasury the executive administration of the provisions of subsection (c) of Section 3 of the Trading with the Enemy Act relative to sending, or taking out of, or bringing into, or attempting to send, take out of, or bring into, the United States, any letter, writing or tangible form of communication, except in the regular course of the mail; and of the sending, taking, or transmitting, or attempting to send, take, or transmit, out of the United States, any letter, or other writing, book, map, plan or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy. And said Secretary of the Treasury is hereby authorized and empowered to issue licenses to send, take or transmit out of the United States anything otherwise forbidden by said subsection (c) and give such consent or grant such exemption in respect thereto, as is not inconsistent with law, or to withhold or refuse the same.

XII. I further authorize the Secretary of the Treasury to grant a license under such terms and conditions as are not inconsistent with law or to withhold or refuse the same to any "enemy" or "ally of enemy" insurance or reinsurance company doing business within the United States through an agency or branch office or otherwise, which shall make application within thirty days of October 6, 1917.

XIII. I hereby authorize and direct the Secretary of the Treasury, for the purpose of such executive administration, to take such measures, adopt such administrative procedure, and use such agency or agencies as he may from time to time deem necessary and proper for that purpose. The proclamation of the President, dated September 7, 1917, made under authority vested in him by Title VII of said Act of Congress, approved June 15, 1917, shall remain in full force and effect. The executive order, dated September 7, 1917, made under the authority of said title shall remain in full force and effect until new regulations shall have been established by the President, or by the Secretary of the Treasury, with the approval of the President, and thereupon shall be superseded.

CENSORSHIP BOARD

XIV. I hereby establish a Censorship Board to be composed of representatives, respectively, of the Secretary of War, the Secretary of the Navy, the Postmaster General, the War Trade Board, and the Chairman of the Committee on Public Information.

XV. And I hereby vest in said Censorship Board the executive administration of the rules, regulations and proclamations from time to time established by the President under subsection (d) of Section 3, of the Trading with the Enemy Act, for the censorship of communications by mail, cable, radio or other means of transmission passing between the United States and any foreign country from time to time specified by the President, or carried by any vessel, or other means of transportation touching at any port, place or territory of the United States and bound to or from any foreign country.

XVI. The said Censorship Board is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

FEDERAL TRADE COMMISSION

XVII. I further hereby vest in the Federal Trade Commission the power and authority to issue licenses under such terms and conditions as are not inconsistent with law or to withhold or refuse the same, to any citizen of the United States or any corporation organized within the United States to file and prosecute applications in the country of an enemy or ally of enemy for letters patent or for registration of trade-mark, print, label, or copyright, and to pay the fees required by law and the customary agents' fees, the maximum amount of which in each case shall be subject to the control of such Commission; or to pay to any enemy or ally of enemy any tax, annuity or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents, trade-marks, prints, labels and copyrights.

XVIII. I hereby vest in the Federal Trade Commission the power and authority to issue, pursuant to the provisions of Section 10(c) of the Trading with the Enemy Act, upon such terms and conditions as are not inconsistent with law, or to withhold or refuse, a license to any citizen of the United States, or any corporation organized within the United States, to manufacture or cause to be manufactured a machine, manufacture, composition of matter, or design, or to carry on or cause to be carried on a process under any patent, or to use any trade-mark, print, label, or copyrighted matter owned or controlled by an enemy or ally of enemy, at any time during the present war; and also to fix the prices of articles and products manufactured under such licenses necessary to the health of the military and the naval forces of the United States, or the successful prosecution of the war;

and to prescribe the fee which may be charged for such license, not exceeding \$100.00 and not exceeding 1 per centum of the fund deposited by the licensee with the Alien Property Custodian as provided by law.

XIX. I hereby further vest in the said Federal Trade Commission the executive administration of the provisions of Section 10 (*d*) of the Trading with the Enemy Act, the power and authority to prescribe the form of, and time and manner of filing statements of the extent of the use and enjoyment of the license and of the prices received and the times at which the licensee shall make payments to the Alien Property Custodian, and the amounts of said payments, in accordance with the Trading with the Enemy Act.

XX. I further hereby vest in the Federal Trade Commission the power and authority, whenever in its opinion the publication of an invention or the granting of a patent may be detrimental to the public safety or defense, or may assist the enemy, or endanger the successful prosecution of the war, to order that the invention be kept secret and the grant of letters patent withheld until the end of the war.

XXI. The said Federal Trade Commission is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

THE POSTMASTER GENERAL

XXII. I hereby vest in the Postmaster General the executive administration of all the provisions (except the penal provisions) of Section 19, of the Trading with the Enemy Act, relating to the printing, publishing or circulation in any foreign language of any news item, editorial, or other printed matter respecting the Government of the United States or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war or any matter relating thereto, and the filing with the Postmaster at the place of publication, in the form of an affidavit of a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper or publication, and the issuance of permits for the printing, publication and distribution thereof free from said restriction. And the Postmaster General is authorized and empowered to issue such permits upon such terms and conditions as are not inconsistent with law and to refuse, withhold or revoke the same.

XXIII. The sum of \$35,000.00 or so much thereof as may be necessary is hereby allotted out of the funds appropriated by the Trading with the Enemy Act, to be expended by the Postmaster General in the administration of said Section 19 thereof.

XXIV. The Postmaster General is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

SECRETARY OF STATE

XXV. I hereby vest in the Secretary of State the executive administration of the provisions of subsection (b) of Section 3 of the Trading with the Enemy Act relative to any person transporting or attempting to transport any subject or citizen of an enemy or ally of enemy nation, and relative to transporting or attempting to transport by any owner, master or other person in charge of a vessel of American registry, from any place to any other place, such subject or citizen of an enemy or enemy ally.

XXVI. And I hereby authorize and empower the Secretary of State to issue licenses for such transportation of enemies and enemy allies or to withhold or refuse the same.

XXVII. And said Secretary of State is hereby authorized and empowered to take all such measures as may be necessary or expedient to administer the powers hereby conferred and to grant, refuse, withhold or revoke licenses thereunder.

SECRETARY OF COMMERCE

XXVIII. I hereby vest in the Secretary of Commerce the power to review the refusal of any Collector of Customs under the provisions of Sections 13 and 14 of the Trading with the Enemy Act, to clear any vessel, domestic or foreign, for which clearance is required by law.

ALIEN PROPERTY CUSTODIAN

XXIX. I hereby vest in an Alien Property Custodian, to be hereafter appointed, the executive administration of all the provisions of Section 7(a), Section 7(c), and Section 7(d) of the Trading with the Enemy Act, including all power and authority to require lists and reports, and to extend the time for filing the same, conferred upon the President by the provisions of said Section 7(a), and including the power and authority conferred upon the President by the provisions of said Section 7(c), to require the conveyance, transfer, assignment, delivery or payment to himself, at such time and in such manner as he shall prescribe, of any money or other properties owing to or belonging to or held for, by or on account of, or on behalf of, or for the benefit of any enemy or ally of an enemy, not holding a license granted under the provisions of the Trading with the Enemy Act, which, after investigation, said Alien Property Custodian shall determine is so owing, or so belongs, or is so held.

XXX. Any person who desires to make conveyance, transfer, payment, assignment or delivery, under the provisions of Section 7(*d*) of the Trading with the Enemy Act, to the Alien Property Custodian of any money or other property owing to or held for, by or on account of, or on behalf of, or for the benefit of an enemy or ally of enemy, not holding a license granted as provided in the Trading with the Enemy Act, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, shall file application with the Alien Property Custodian for consent and permit to so convey, transfer, assign, deliver or pay such money or other property to him and said Alien Property Custodian is hereby authorized to exercise the power and authority conferred upon the President by the provisions of said Section 7(*d*) to consent and to issue permit upon such terms and conditions as are not inconsistent with law, or to withhold or refuse the same.

XXXI. I further vest in the Alien Property Custodian the executive administration of all the provisions of Section 8(*a*), Section 8(*b*), and Section 9 of the Trading with the Enemy Act, so far as said Sections relate to the powers and duties of said Alien Property Custodian.

XXXII. I vest in the Attorney General all power and authority conferred upon the President by the provisions of Section 9 of the Trading with the Enemy Act.

XXXIII. The Alien Property Custodian to be hereafter appointed is hereby authorized to take all such measures as may be necessary or expedient, and not inconsistent with law, to administer the powers hereby conferred; and he shall further have the power and authority to make such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of said Section 7(*a*), Section 7(*c*), Section 7(*d*), Section 8(*a*), and Section 8(*b*), conferred upon the President by the provisions thereof and by the provisions of Section 5(*a*), said rules and regulations to be duly approved by the Attorney General.

XXXIV. The Alien Property Custodian to be hereafter appointed shall, "under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe," have administration of all moneys (including checks and drafts payable on demand) and of all property, other than money which shall come into his possession in pursuance of the provisions of the Trading with the Enemy Act, in accordance with the provisions of Section 6, Section 10, and Section 12 thereof.

WOODROW WILSON

THE WHITE HOUSE,
12 October, 1917.

*The Secretary of State to the Minister in the Netherlands (Garrett)*⁵⁰

[Telegram]

WASHINGTON, October 17, 1917—5 p. m.

726. For your information.

On October 12th following memorandum was handed by the Exports Administrative Board to the Netherlands Commission in this country:

"The Holland Government Commission on the 18th of September presented in person a memorandum to the Exports Administrative Board, and on September 25th addressed a letter to the Board making certain proposals.

In considering the points raised in the memorandum and letter, the Board desires to review the note presented to the Holland Government by the Exports Council on the 24th day of July, 1917.

This note expressed the hope that certain matters mentioned therein would receive the earnest and earliest possible consideration of the Holland Government.

Among other matters mentioned there was requested full information as to the production, consumption and needs of the people of Holland, and particularly of foodstuffs set out in the form of protein, fats and carbohydrates.

The vital interest of the United States in the supplies being furnished by Holland to the Central Empires was expressed, and information was requested as to the kind and quantity of exports being thus made. It was also stated that pending a mutual arrangement as to furnishing of supplies to Holland or lending assistance in obtaining supplies for Holland, the United States would consider that any exports to the Central Empires must be taken as in reduction of the amount of foodstuffs or other commodities for the obtaining of which Holland might be given assistance.

The Exports Administrative Board, in view of the foregoing, wishes to make the following observations:

1st. Since the 24th day of July (the date of the Exports Council note) the Board has been waiting for the information requested. The Minister from Holland to the United States in answer to queries of the Board has stated from time to time that the Commission being sent by his Government would fetch full particulars concerning all matters requested.

The Board would be pleased if providing the Commission has this information it would make the same available in order that the Board may know what the needs of the people of Holland are.

2nd. The memorandum presented to the Exports Administrative Board on the 18th of September draws the conclusion that the United States is not inclined to grant licenses for export of fodder to Holland.

⁵⁰ File No. 656.119/63a; For. Rel., 1917, supp. 2, p. 1136.

The Board knows of no reason for this conclusion. On the contrary the information requested has as one of its objects the determining of the needs of Holland for fodder, and if Holland has such needs, then the Board would be glad to grant licenses for the export of such commodities as can be spared by the United States even though this may mean considerable sacrifice, and notwithstanding that the United States can ill afford to let go such articles at the present time.

The killing off of live stock as suggested in the memorandum would appear therefore to be entirely unnecessary and the United States would regret if this should occur, and especially if the famous dairy herds of Holland should be thus depleted.

3rd. The Exports Administrative Board understands that notwithstanding the suggestion that exports into the Central Empires should be considered as in reduction of imports to be expected from the United States, that large quantities of various commodities have continued to be exported.

The Exports Administrative Board therefore wishes to point out to the Holland Government Commission clearly that it cannot license for export foodstuffs, fodder and other materials and commodities when such articles are to be used: (a) for export to the Central Empires; (b) for release of other foodstuffs or commodities to be so exported; (c) for the production of dairy products to be so exported instead of for the sustenance of the people of Holland; (d) for the production directly or indirectly of any articles or the transportation thereof destined for the Central Empires, and above all for the transport through or across Holland territory of war materials of enemy origin and ownership being sent directly to the enemy army and to the enemy trenches.

If Holland is to continue to supply what is equivalent to a large part of the ration of the German Army, it must follow that the United States cannot supply directly nor can it lend assistance in obtaining those things which the Holland Government commission requests.

4th. The proposal put forward by the Holland Government Commission for the disposal of cargoes and for the bunkering of ships lying in United States harbors provides for the employment of Holland tonnage, which object the Board would be glad to facilitate, but the proposal gives no assurance that Holland will not employ the commodities for which export licenses are requested and continue to employ her resources for the benefit of the enemy. The proposal is therefore not acceptable.

In the meantime, pending negotiations, the Exports Administrative Board cannot agree to grant licenses for coal and ships' supplies to Dutch vessels bound for Holland or Scandinavia or when proceeding to other points to procure cargoes destined for Holland or Scandinavia, when it has no assurance as to the purpose for which such cargoes are to be employed.

5th. The Board wishes to suggest, pending the discussion of the above matters, the advisability of employing Holland tonnage in increasing the available quantity of foodstuffs in the

United States by assisting in bringing into the United States such commodities from Java, Australia, Africa, the far East, South America, or other places as would release for export a like quantity of other or similar goods, or of employing the tonnage in the worthy causes of sending supplies to Belgium for the Commission for Relief in Belgium.

The Board hopes to arrive at a satisfactory conclusion with the Holland Government Commission after a discussion, and will therefore be glad to have the information suggested at the earliest moment.^[7]

LANSING

284

*The Secretary of State to the Ambassador in Great Britain (Page)*⁵¹

[Circular telegram]

WASHINGTON, October 17, 1917—9 p. m.

Department's Circular October 6, 6 p. m.⁵²

In view of distorted statements appearing in despatches from neutral countries, it seems desirable that publicity be given to policy of this government in regard to embargo in trade to neutral nations.

On July 24th the Exports Council handed an identical note to the representatives here of the Scandinavian countries and Holland outlining the policy which the United States had decided to pursue in regard to the assistance it was prepared to lend these northern neutral countries in supplying them with the commodities which they needed for the continuance of their national life and usual pursuits. This note requested information from these countries as to their production, consumption and requirements of all commodities and particularly of foodstuffs set out in the form of protein, fats and carbohydrates. The note expressed the vital interest of the United States in the aid which these countries would furnish to Germany and her allies. The United States gave warning that pending a mutual arrangement as to furnishing supplies to any of these countries or lending assistance in helping them to obtain supplies for themselves the United States would consider that any exports which any of these countries might make to the central empires would be considered as in reduction of the amount of foodstuffs or other commodities which would be supplied to the country in question for its own sustenance and industry.

⁵¹ File No. 600.119/420a; For. Rel., 1917, supp. 2, p. 974.

The same telegram to the diplomatic representatives in Denmark, the Netherlands, Norway, Spain, Sweden, and Switzerland.

⁵² Document 280.

If these countries continue to send aid to Germany and her allies it would hardly be possible to expect the United States to help them in securing supplies.

Notwithstanding the above warning some of these countries have continued to send large quantities of vital supplies to the central empires and despite repeated requests little information has been forthcoming as to what these countries need for the sustenance of their own people.

The War Trade Board just established by executive order proposes to continue the embargo policy which has been instituted and to deny export licenses to any of these neutral countries so long as denied the information which has been requested and so long as these countries continue to give aid to Germany and her allies not only directly but also indirectly, such as converting fodder into dairy products, the use of oil for the operation of fishing craft, using lubricating oil in the manufacturing establishments working for German interests, in fact, for all the indirect assistance, which is even more effective against the allies than if these commodities had been sent directly to Germany since the finished products are delivered to the Germans instead of the raw materials which they are to be manufactured or converted into. It is unreasonable to expect that our farmers shall raise food-stuffs and our people deny themselves the quantities they desire to consume in order that a surplus may be sent to the northern neutrals to render easier for them the help which they are extending to our enemies.

The policy of this Government is in no way inspired by a desire to hamper or interfere with the normal life of neutrals. On the contrary we are willing to help these neutrals even at a sacrifice to ourselves in allowing export to them of commodities we can ill afford to spare, but in return for this friendly service we must demand some guarantee that these supplies will not be turned against us to kill our sons and prolong the war.

The welfare of the northern neutrals is in their own hands.

LANSING

285

*The Secretary of State to the Secretary of the Navy (Daniels)*⁵³

WASHINGTON, November 10, 1917.

SIR: I have the honor to enclose for your consideration, copies of *British Treaty Series*, 1915, numbers 2 and 4; 1916, number 5; 1917, number 6; together with copies of a note, dated August 10, 1917,

⁵³ File No. 763.72112/4492; For. Rel., 1918, supp. 1, p. 922.

from the British Foreign Office, and of a despatch from the American Ambassador at London, transmitting the same, relative to a convention entered into by Great Britain and France and acceded to by Russia and Italy, concerning prizes captured during the present European War.

Your attention is called to the provisions of this convention, and particularly to articles 3, 4, 5, 6 and 7. I would be pleased to have an expression of your views as to whether or not it would be desirable for this Government to enter into a separate agreement of this nature with Great Britain or with any of the other Allied European Powers, and if so, as to the provisions to be contained in such an agreement.

I have [etc.]

ROBERT LANSING

286

*The Secretary of State to the Ambassador in Great Britain (Page)*⁵⁴

[Telegram]

WASHINGTON, November 15, 1917—5 p. m.

5820. For McCormick. The President sent for me this afternoon to ascertain the exact situation of Norwegian negotiations in preparation for appointment which he has made for Doctor Nansen. I explained present situation and all that led up to it and stated to him proposed negotiations to be carried on at Christiania as stated in your cable 11th. He discussed with me the program therein outlined and directed me to cable you that he is entirely unwilling to go any farther than the principle of action already settled namely that we will supply or attempt to supply nothing to Norway except what we can be shown the people actually lack and we cannot undertake to supply them with any food elements of which they deprive themselves by exportation. He is not willing to take part in insisting that there be no export from Norway to Germany as he regards that as inconsistent with the principle upon which the United States has always insisted and the rights which she has always demanded for herself. In view of above he further directs me to say that in his judgment we cannot in good faith hold up the Danish agreement awaiting any other negotiations. Signed, Jones.⁵⁵

LANSING

⁵⁴ File No. 657.119/132a; For. Rel., 1917, supp. 2, p. 1065.

⁵⁵ Thomas D. Jones, Acting Chairman of the War Trade Board.

287

*The President to the Special Representative (House)*⁵⁶

[Telegram]

WASHINGTON, November 19, 1917—1 p. m.

Am distressed to differ with McCormick but inasmuch as we are fighting a war of principle I do not feel that I can consent to demand of Norway what we would not in similar circumstances allow any government to demand of us, namely, the cessation of exports of her own products to any place she can send them. I am convinced that our only legitimate position is that we will not supply the deficiencies which she thus creates for herself if the exports are to our enemies.

WILSON

288

*The Secretary of State to the Ambassador in Great Britain (Page)*⁵⁷

[Telegram]

WASHINGTON, November 20, 1917—8 p. m.

5859. For McCormick from Jones.

"The President showed me his message to you through House of the 19th. I pointed out to him that it would probably convey to you the meaning that he is opposed to any restriction or limitation of exports by Northern neutrals to Germany of their own products as distinguished from products received from us. He directs me to cable you that this was not his meaning; that by cessation of exports he meant complete cessation and not limitation."

LANSING

289

*The Secretary of State to the Chargé in Cuba (Scholle)*⁵⁸

[Telegram]

WASHINGTON, November 20, 1917—6 p. m.

Obtain audience with President and point out to him confidentially that this Government has positive knowledge that German agents and German mails are being carried between Mexico and Spain via Cuba. Impress upon him vital necessity of establishing an efficient censorship in Cuba, in cooperation with United States

⁵⁶ File No. 657.119/136½; For. Rel., 1917, supp. 2, p. 986.⁵⁷ File No. 103.96/92a; For. Rel., 1917, supp. 2, p. 986.⁵⁸ File No. 837.711/1; For. Rel., 1918, supp. 1, p. 1729.

Censorship. Point out that Presidential Executive Order provides, and that adequate machinery now carries into effect, a strict censorship on all vessels coming from any neutral country and destined to any other neutral country which stop *en route* at any port in the United States, as well as all mails on all ships leaving or entering the United States.

All mails leaving Cuba for any foreign country should be similarly censored; mails bound for Europe, taken from neutral vessels for censorship, should be re-shipped on some Ally vessel in order to insure control while in transit through France.

In order to insure the greatest efficiency and ease of exchange of officers, it is suggested that the Cuban Government promulgate provisions similar to those obtaining in the United States.

Should the President approve this in principle, an officer of the United States Censorship will proceed at once to Cuba to explain in detail the organization and working of the American Censorship to the end that when the proclamation is made this uniformity will be insured.⁵⁹

In this connection, you may point out that the Government of the United States would desire to enter into an exchange of personnel with the Cuban Government, looking to their employment in the United States.

At the same time bring to his attention that the United States Government, in the establishment and operation of her Censorship, has endeavored to move as quietly and promptly as possible, believing the usefulness of the censor to be largely increased by allowing the least possible reference to his work or existence. Urge prompt action, and keep Department fully and confidentially informed.

LANSING

290

The Secretary of State to the Ambassador in France (Sharp) ⁶⁰

[Telegram]

WASHINGTON, November 22, 1917—8 p.m.

2843. Your 2722 November 12, 11 a. m. discussed with War Trade Board, which concurs with your recommendations as to using the embargo regulations as a means of securing necessary concessions from Spain. The Board is prepared to make thorough-going concessions in the furnishing of commodities to Spain by way of exchange for supplies needed by our army in France, although some of the commodities mentioned in your telegram are difficult to obtain.

⁵⁹ The Chargé replied Nov. 21 (File No. 837.711/2): "President approves in principle and is anxious to have officer come at once to explain."

⁶⁰ File No. 652.119/207; For. Rel., 1917, supp. 2, p. 1214.

Before acting the Board would like detailed information as to bulky commodities which can be most advantageously secured in Spain for the use of our army. Cannot this information be obtained through Colonel Dawes and Christie as well as through Embassy at Madrid. Please inform Willard.

LANSING

291

The Secretary of State to the Minister in Norway (Schmedeman) ⁶¹

[Telegram]

WASHINGTON, November 24, 1917—5 p.m.

185. Your 380, November 15.

After long discussion and consultation by cable with McCormick in London, it has been decided to continue negotiations with Norway here. As soon as the Allies and ourselves have agreed on the terms to be presented, the terms will be cabled to you. Negotiations are going on here with Nansen, and some progress being made.

For your confidential information, the Department thinks it would be desirable for you in your discussions of the matter with Norwegians to lay stress on the fact that we are acting with the Allies and frequently we are compelled to yield to them and make terms more onerous on neutrals.

LANSING

292

Proclamation Further Restricting Exports, November 28, 1917 ⁶²

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Congress has enacted, and the President has on the fifteenth day of June 1917, approved a law which contains the following provisions:

“Whenever during the present war the President shall find that the public safety shall so require, and shall make proclamation thereof, it shall be unlawful to export from or ship from or take out of the United States to any country named in such proclamation any article or articles mentioned in such proclamation, except at such time or times, and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: Provided, however, that no preference shall be given to the ports of one State over those of another.”

⁶¹ File No. 657.119/130; For. Rel., 1917, supp. 2, p. 1073.

⁶² Proclamation No. 1410; For. Rel., 1917, supp. 2, p. 989.

NOW, THEREFORE, I, WOODROW WILSON, PRESIDENT OF THE UNITED STATES OF AMERICA, DO HEREBY PROCLAIM to all whom it may concern, that the public safety requires that the following articles (in addition to the articles controlled by the second division of the Proclamation of August 27, 1917), namely: iron and steel wire rope, cable and strands consisting of six or more wires; stud link chain cable; micrometers and calipers; lathe chucks; antimony, antimony ore, asbestos, balata, mica, mica splittings, strontium ores, titanium, wolframite and iridium; arsenic and its compounds, opium, caustic soda, soda ash, methyl-ethyl ketone and wood alcohol; acetic acid, glacial acetic acid, acetate of cellulose and all acetates; animal oils and vegetable oils; beans, eggs, peanut meal, flaxseed, soya bean meal, soya bean oil, starch, canned peas, canned tomatoes, canned corn, dried prunes, dried apricots, dried apples, dried raisins and dried peaches; quebracho and chestnut extracts; vegetable fibre bags and bagging, except cotton bags and bagging; rubber, sponges, gutta-joolatong, gutta-percha, gutta-siak, shellac, seedlac and cinchona bark; hospital gauze and surgical instruments; yellow pine wood measuring 1' x 1' x 25' and larger sizes; and poster paper: shall not, on and after the first day of December in the year One Thousand Nine Hundred and Seventeen, be exported from or shipped from or taken out of the United States or its territorial possessions to Abyssinia, Afghanistan, Argentina, Belgium, her colonies, possessions or protectorates, Bolivia, Brazil, China, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, France, her colonies, possessions or protectorates, Great Britain, her colonies, possessions or protectorates, Guatemala, Haiti, Honduras, Italy, her colonies, possessions or protectorates, Japan, Liberia, Mexico, Monaco, Montenegro, Morocco, Nepal, Nicaragua, the colonies, possessions or protectorates of The Netherlands, Oman, Panama, Paraguay, Persia, Peru, Portugal, her colonies, possessions or protectorates, Roumania, Russia, Salvador, San Marino, Serbia, Siam, Uruguay or Venezuela, or to any territory occupied by the military forces of the United States or the nations associated with the United States in the war, except at such time or times, and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress.

The regulations, orders, limitations and exceptions prescribed will be administered by and under the authority of the War Trade Board, from whom licenses, in conformity with said regulations, orders, limitations and exceptions, will issue. Said Proclamation of August 27, 1917, is hereby confirmed and continued, and all rules and regulations heretofore made in connection therewith or in pursuance thereof, including the Executive Order of October 12, 1917, are

likewise hereby confirmed and continued and made applicable to this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the District of Columbia, this 28th day of November in the year of our Lord One Thousand Nine Hundred and [SEAL] Seventeen and of the Independence of the United States of America the One Hundred and Forty-Second.

WOODROW WILSON

By the President,

ROBERT LANSING,

Secretary of State.

293

*Proclamation Prohibiting Certain Imports except under License,
November 28, 1917*⁶³

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Congress has enacted, and the President has on the Sixth day of October, 1917, approved, a law which contains the following provisions:

"Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: Provided, however, that no preference shall be given to the ports of one State over those of another."

NOW, THEREFORE, I, WOODROW WILSON, PRESIDENT OF THE UNITED STATES OF AMERICA, DO HEREBY PROCLAIM to all whom it may concern that the public safety requires that the following articles, namely: antimony, antimony ore, or any chemical extracted therefrom; asbestos; beans of all kinds; balata; burlap; castor seed, castor oil; cotton; chrome, chrome ore, or any ferro-alloy or chemical extracted therefrom; cocoanut oil; cobalt, cobalt ore, or any ferro-alloy or chemical extracted therefrom; copra; industrial diamonds; all ferro-alloys; flax; gutta joolatong; gutta percha; gutta siak; hemp; hides and skins; jute; iridium; leather; manganese, manganese ore, or any ferro-alloy or chemical extracted therefrom;

⁶³ Proclamation No. 1411; For. Rel., 1917, supp. 2, p. 990.

mica, molybdenum, molybdenum ore, or any ferro-alloy or chemical extracted therefrom; naxos emery and naxos emery ore; nickel, nickel ore, matte, or any ferro-alloy or chemical extracted therefrom; sodium, potassium, or calcium nitrates; optical glass; palm oil; platinum; plumbago; pyrites; rice; rubber, raw, reclaimed, waste or scrap; scheelite; shellac; sisal; soya bean oil; spiegeleisen; sugars; tanning materials; tin in bars, blocks, pigs, or grain or granulated; tin ore and tin concentrates, or any chemical extracted therefrom; titanium, titanium ore, or any ferro-alloy or chemical extracted therefrom; tobacco; tungsten, tungsten ore, or any ferro-alloy or chemical extracted therefrom; vanadium, vanadium ore, or any ferro-alloy or chemical extracted therefrom; wheat and wheat flour; wolframite; or wool, shall not, from and after the date of this proclamation, be imported into the United States or its territorial possessions from Abyssinia, Afghanistan, Albania, Argentina, Austria-Hungary, Belgium, her colonies, possessions and protectorates, Bolivia, Brazil, Bulgaria, China, Chile, Colombia, Costa Rica, Cuba, Denmark, her colonies, possessions and protectorates, Dominican Republic, Ecuador, Egypt, France, her colonies, possessions and protectorates, Germany, her colonies, possessions and protectorates, Great Britain, her colonies, possessions and protectorates, Greece, Guatemala, Haiti, Honduras, Italy, her colonies, possessions and protectorates, Japan, Liechtenstein, Liberia, Luxembourg, Mexico, Monaco, Montenegro, Morocco, Nepal, The Netherlands, her colonies, possessions and protectorates, Nicaragua, Norway, Oman, Panama, Paraguay, Persia, Peru, Portugal, her colonies, possessions and protectorates, Roumania, Russia, Salvador, San Marino, Serbia, Siam, Spain, her colonies, possessions and protectorates, Sweden, Switzerland, Turkey, Uruguay, or Venezuela, except under license granted by the War Trade Board in accordance with regulations or orders and subject to such limitations and exceptions as have heretofore been made or shall hereafter be prescribed in pursuance of the powers conferred by said Act of October 6, 1917, and the Executive Order of October 12, 1917.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE in the District of Columbia, this 28th day of November in the year of our Lord One Thousand Nine Hundred and [SEAL] Seventeen and of the Independence of the United States of America the One Hundred and Forty-second.

WOODROW WILSON

By the President,

ROBERT LANSING

Secretary of State.

294

*Public Statement by the War Trade Board, in Connection with the President's Proclamation Prohibiting Certain Imports except under License, December 1, 1917*⁶⁴

[Extract]

For some months exports from the United States have been controlled by the War Trade Board, . . .

.

Section 11 of the "Trading with the Enemy Act" conferred upon the President a like power to control imports into the United States. Such control of imports was made effective by the allied Governments many months ago, the necessity therefor having become obvious if the resources of each were to be most effectively utilized for national and international demands. With the organization of the Bureau of Imports of the War Trade Board the requisite machinery has been supplied for increasing the importation of certain indispensable commodities produced abroad. The supply now coming forward to this country is limited by reason of export embargoes imposed by foreign powers controlling the territory in which such materials originate. Such action was made necessary because of interference with normal production, as well as the extraordinary consumption occasioned by the war. Among notable examples of such materials may be mentioned tin, wool, rubber, ferromanganese, leather, flax, and jute.

Prior to the enactment of this statute there was no governmental agency especially designated to deal with the proper officials of other governments in order to procure the release of commodities required by the United States and which had been embargoed by other Governments. The governmental supervision of imports makes possible a more effective scheme of reciprocity, and brings about a closer unity of the countries associated together in the war. Heretofore, in the absence of a responsible agency with which to deal, the allied Governments were not in a position to know that all products exported by them to the United States would be utilized in a manner most conducive to the success of the great common enterprise. With the extension of scope in the operations of the War Trade Board there is at hand a dependable medium through which the allies will be enabled more effectively to express their willingness to reciprocate, by making liberal shipments of commodities much needed by this country in

⁶⁴ *The Official Bulletin*, Washington, Dec. 1, 1917 (vol. 1, no. 173), p. 1; *For. Rel.*, 1917, supp. 2, p. 992.

exchange for the vast quantities of vital supplies which are going forward to them in an unending stream.

The various trades dealing in the embargoed commodities have been or are being so organized that the total requirements of each industry can be accurately surveyed, the nonessential uses of any material eliminated, and a system of control provided which will insure the equitable distribution of the imported commodity and its consumption in the most essential products. At present all of these materials are permitted by foreign Governments to come into this country only under guarantees that they will not be reexported except under specified restrictions; that they will not be used in trading directly or indirectly with the enemy; and that no purchase of any such material has been made as a speculation. At present these guarantees are given to the consul or other representative of the allied Governments in this country, but this method of handling imports has resulted in some dissatisfaction on the part of American business men affected thereby.

Under the authority conferred upon the President by the "trading-with-the-enemy act" the issuance of a proclamation requiring a license for the importation of these various articles puts into effect a plan whereby the giving of guarantees by individual parties to a foreign Government is obviated, and American individuals or firms will henceforth deal directly with their own Government in connection with their importations.

295

*The Secretary of State to the Ambassador in Spain (Willard)*⁶⁵

[Telegram]

WASHINGTON, December 1, 1917—6 p.m.

769. Your 902 November 30th:

Department assumed that you knew that no licenses were being granted for cotton or oils and many other commodities for Spain at present. Everything is being held up that can be held up without giving impression of complete embargo. Statement made to the Spanish Ambassador here that some understanding would be necessary before trade could be completely reestablished. Department understood that you would take up with McCormick and representatives of the Army and representatives of France and Great Britain details of some agreement with Spain.

In view of possible delay in coming to an understanding the Department would like your views as to advisability of releasing

⁶⁵ File No. 652.119/267; For. Rel., 1917, supp. 2, p. 1216.

limited amount of cotton owing to danger of financial losses to shippers of this country. Would in your opinion 30,000 bales spread over period of several weeks be undesirable. Please cable immediately what discussions you had in Paris with representatives of the Allies and Army, and whether negotiations have been begun.

LANSING

296

*Memorandum between the War Trade Board of the United States and the Swiss Government in Regard to Exports from the United States to Switzerland, December 5, 1917*⁶⁶

The War Trade Board, an administrative agency empowered by executive order of the President of the United States to license exports in certain cases, and the Swiss Minister, Mr. H. Sulzer, have considered the requirements of Switzerland for exports from the United States for the twelve months beginning October 1st, 1917, and ending September 30th, 1918. In order to set forth in definite form a statement of the quantities of such exports from the United States to Switzerland for which licenses may be granted by the said War Trade Board, and the conditions, rules and regulations, under and in accordance with which such export licenses may be issued, it is hereby stated and declared:

I

1. It is the desire of said War Trade Board that Switzerland shall receive the maximum requirements of the several articles, commodities, material and substances hereinafter enumerated in the several schedules annexed in-so-far-as (1) the same are not required for consumption in the United States and Allied countries,⁶⁷ and (2) will not, if their exportation is permitted directly or indirectly benefit any country or ally of any country with which United States is at war.

2. The statement of said War Trade Board in regard to issuing licenses, and the allotment of the designated quantities of the several articles, commodities, material and substances as set forth in the annexed schedules A-B-C-D-E-F-G-H, and within the limits of the contingents are not intended and shall not be held and construed to constitute an agreement or contract on the part of the United

⁶⁶ File No. 654.119/84, 90; For. Rel., 1917, supp. 2, p. 1185.

Certain corrections, indicated as errata in the War Trade Board print of this agreement, have been made herein. The phrases as they appear in the original document in the Department files, are given in the footnotes which follow.

⁶⁷ Original reads "their allies."

States with the Swiss Government; but shall be held, construed and regarded as a declaration merely of the domestic or internal administrative action of the said board pertaining to the licensing of shipments from the United States. Said Board does not assume the power or authority to make contracts or agreements binding upon the government of the United States, nor does it assume to deal in regard to the policy of the United States relating to foreign affairs.

II

The granting of licenses for the exportation from the United States to Switzerland of the quantities of articles, commodities, material and substances as set forth in the several schedules attached is conditioned upon the undertaking of the Swiss Government to fulfill faithfully and observe each of the following stipulations and conditions:

1. It is stipulated and understood that the distribution of any and all articles, commodities, material and substances described in the next schedule shall be subject to the condition that such distribution must in every case be authorized by and shall be made pursuant to the rules and statutes of the Societe Suisse de Surveillance Economique hereinafter designated as S. S. S. Such articles, commodities material and substances shall in no event be delivered to agents, dealers or purchasers in greater quantities than can be accounted for by the genuine requirements of stipulated Swiss consumption.

2. That full information shall be given to any accredited representative of the United States with respect to any distribution or delivery made or proposed to be made of the articles, commodities, material and substances dealt with hereunder. If any question shall arise as to such distribution, it is agreed that the Swiss Government will give any such accredited representative of the United States full information on the subject which will include the production of any such books or documentary evidence as bears thereon. And at the request of any such accredited representative of the United States, the Swiss government will furnish full particulars in regard to the enforcement of the Swiss prohibitions and regulations concerning exports from Switzerland and will afford every facility within its power and co-operate in any inquiry concerning the effective enforcement of such prohibition, regulations and restrictions.

3. The articles, commodities, material and substances for which export licenses shall be granted pursuant to the stipulations herein contained are based upon the estimated total requirements of Switzerland for the period mentioned and since the same are to be withdrawn from the already restricted supplies in the United States, it is especially stipulated that if Switzerland is able to obtain elsewhere

supplies of the same goods of American origin,⁶⁸ the amounts thus elsewhere obtained shall be subtracted from the quantities set forth in the schedules annexed.

4. The right is reserved to determine the distribution of the allotments for export both as to time and port of sailing, but due consideration shall be given to any requests or representations of the Swiss Government that may be made in regard to the most advantageous use by the Swiss government of vessels under Swiss charter and employed in the ocean carriage of such articles, commodities, material and substances.

This article does not apply to the allotment of grains (Schedule B) concerning which special arrangements are made below.

5. The Swiss government obligates itself to transport at the actual cost of such transportation from any port or ports of the United States that may be designated, 1000 tons of cargo each month destined for the American Red Cross in Switzerland (prisoners of war), it being understood that these cargoes shall not absorb more than 5% of the monthly tonnage available for Switzerland in United States ports.

6. In the event the Swiss Government shall be unable to secure adequate ocean tonnage facilities to transport her supplies from this country, such aid shall be extended in securing additional tonnage facilities of neutral ownership as may be possible, consistent with the tonnage requirements of the United States and allied governments.

7. The Swiss Government recognizes that it is undesirable that vessels under Swiss charter should proceed in ballast or only partially loaded to a United States port. Spanish vessels chartered by the Swiss government to carry cargoes to France destined for the Swiss government shall, when westward bound,⁶⁹ whenever possible, carry cargoes consisting in whole or in part of pyrites from Spain. In the event other acceptable cargo is available, such other cargo may be substituted. The Swiss government will co-operate in every way that lies within its power in order that all vessels inward bound to the United States shall carry full cargo.

8. It is further expressly stipulated that any articles, commodities, material or substances which may be in transit, or which may have arrived at any port in France from the United States, shall not until such time as this memorandum shall finally become effective, pass beyond such French ports in the course of transportation to Switzerland. Any export license in the meantime issued for such above

⁶⁸ The phrase "of American origin" was included under a misapprehension. The War Trade Board requested its elimination on Jan. 22, 1918, and the Swiss Government agreed on Feb. 4 (File No. 654.119/110a, 119; For. Rel., 1918, supp. 1, pp. 1597, 1599).

⁶⁹ The phrase "when westward bound" not in original.

mentioned articles, commodities, material or substances from the United States, whether so ⁷⁰ recited therein or not, shall be subject to the conditions expressed in this paragraph. Cargoes licensed from the first day of October, 1917, and until this agreement becomes effective, shall provisorily remain in the custody of the French government or its representatives until released by them for final transportation to their destination in Switzerland.

9. That the importation into Switzerland of the articles, commodities, material and substances herein mentioned is for consumption in Switzerland, and the amounts and quantities ⁷¹ thereof (notwithstanding the maximum quantities stated in the Schedules, A, B, C, D, E, F, G,⁷²) shall at all times be limited by the genuine internal requirements of Switzerland, with due regard to the importation into Switzerland from other countries than the United States of articles, commodities, material and substances capable of use as substitutes for those described in the annexed schedules.

10. That except as set forth hereinafter, none of the articles, commodities, material or substances imported from the United States and no product, by-product, or waste and no alloy, compound, or ingredient thereof, shall, subject only to specific exceptions hereinafter designated, be directly or indirectly consigned or exported to, or used for the benefit or advantage of Germany, Austria-Hungary, Bulgaria or Turkey.

11. The following exceptions applying to (a) countries, and allies of countries at war with the United States and (b) neutral European countries, are made;

(a) The undertaking of the Swiss government in regard to prohibitions and restrictions against exports from Switzerland and of countries and allies of countries at war with the United States shall be subject to the following and no other exceptions:

The prohibitions of exports shall not apply to articles manufactured in Switzerland and included within the category of articles specified in article 10, paragraphs (a) and (c) 1, 2, 3, 7, 8, 9, 10, 11, 12, 13 of the [by-laws of the] S.S.S. subject always to any modifications which may subsequently be made.

Further, the prohibition of exports shall not apply to the quantities of copper, the export of which is allowed as an integral part of machines, in virtue of Article 12 of the by-laws of the S.S.S. in its present form as modified by the agreement of March 20th, 1917 between the allied governments and Switzerland; nor to the metal of which the export is allowed as a "perfectionnement" traffic in conformity with Article 13 of said by-laws.

⁷⁰ Original reads "or."

⁷¹ Original reads "qualities."

⁷² Original reads "H."

In accordance with the provisions of Article 10(c) of the S.S.S. by-laws the right is always reserved to open negotiations with the Swiss government with the object of introducing in the provisions of the above mentioned Articles of the by-laws such modifications as may tend to ensure a limitation of the quantities of goods authorized for export to the countries at war with the Allies.

(b) Subject to the condition that the export of articles commodities, material or substances to neutral European countries through any country or ally of country at war with the United States shall in no event be permitted, except by special arrangement or agreement, the undertaking of the Swiss government to prohibit exports shall not apply to cotton goods wholly manufactured in Switzerland from American cotton and exported to Holland, Denmark, Norway, Sweden or other neutral European countries, provided allotments have been made by this board to meet the requirements of such neutral countries. But in all cases exports from Switzerland, exports from the United States and from any other neutral country shall be added together to determine whether the total allotment made by this board has been exceeded. Full information shall be given from time to time upon request of the quantities so exported from Switzerland.

Such re-export of articles so manufactured in Switzerland from material imported into Switzerland from the United States shall be made only to the neutral countries herein mentioned and provided that the manufactured articles so exported from Switzerland shall be consumed in the neutral country to which they are exported. In estimating the quantity required by any neutral including Switzerland, the quantity imported by such neutral from other neutral countries importing from the United States will in every case be subtracted from the amounts allotted by the War Trade Board.

III

In consideration of the foregoing stipulations and conditions and subject to the approval of the French government of the plan and arrangements herein expressed, said War Trade Board hereby makes the following declaration of policy in regard to granting export licenses to meet the requirements of Switzerland, and hereby establishes the rules and regulations which shall govern the issuance of licenses from the United States of articles commodities, material and substances described in the annexed schedules.

If quantities equal to those set forth in said annexed schedules are not deemed available for exportation from the United States at the designated time or times at which licenses for the export thereof shall be requested, according to the policy and rules and regulations of the said Board as herein declared, then licenses shall be granted

for as great a proportion thereof as are available for export, consistent with the policy herein declared. The maximum quantities for which such licenses shall be issued are calculated upon the ascertained requirements for Swiss consumption as specified in said annexed schedules.

Considerations shall be given to any application for license to export to Switzerland articles not specified in said schedules, and if such are not now, and now and shall not hereafter be placed upon general embargo, it shall be the policy of the said Board to issue such licenses in due course, subject always to all other conditions hereof, and to the internal requirements of the United States, and the policy of the said Board in respect to such exports.

Because of the better information possessed by the representatives of the French Government this trade agreement⁷³ shall not become effective until it shall receive the formal approval of the French Government.⁷⁴

SCHEDULES SHOWING QUANTITY OF ASCERTAINED REQUIREMENTS

EXPLANATORY NOTE

(1) Wherever definite quantities of the requirements as set forth in the following schedules are not stated, but the expressions "by agreement", or "to be determined", or "as may be determined" or other equivalent form of expression is appended, it is understood that no declaration of policy is made by said Board and no rule or regulation is established in regard to the quantity for which license will be issued. The quantities shall in each such instance be hereafter determined in the ordinary routine consideration for export licenses.

(2) Wherever the statement of the quantity in the annexed schedules is recited to be "subject to British guaranty" it is understood that no declaration of policy is made or rule or regulation is established by the Board in respect to licensing such exports except conditioned upon favorable recommendation by the British government.

(3) Special conditions and provisions are hereinafter stated in particular instances modifying the declaration of policy and rules and regulations. But said special conditions and provisions shall be limited to the specific articles, commodities, material or substances to which they refer.

(4) The quantities indicated in the following schedules refer to the allotments agreed to by United States and form part of the total

⁷³ Original reads "that this trade agreement."

⁷⁴ The letter of the French Minister of Blockade approving the agreement is not printed.

rations made to the S. S. S. by the allied governments. Nothing in this agreement shall be considered as being in contradiction with the present or future S. S. S. rations.

SCHEDULE A. *Metals*

Articles	Metric tons
Antimony	52
Antimony sulphide	80
Copper—sheets, filing, pipes, wire, etc. (none from Japan) . .	10, 000
Copper, fabricated	800
Copper sulphate	2500
Lead	2000
Zinc	200
Iron sheets, galvanized, etc., except tin less than 3 mm. thick .	6000
Iron sheet between 3 mm. and $\frac{3}{8}$ inch	7000
Steel forgings, machines, machine parts, without prejudice to arrangements already made by the Allies	special
Aluminum sulphate	2000
Round steel bars, hot rolled, forged	by agreement
Square steel bars “ “ “ “ “ “ “ “ “ “ “ “ “ “ “ “	“ “
Seamless tubing, exclusive boiler tubes, welded tubing, lap and butt-welded	“ “
Watch cases, raw and finished	“ “
Agricultural small tools	800

The allotments of the articles in this schedule are subject to the following express conditions, in addition to the conditions hereinbefore set forth and applicable to all schedules.

1. Allotments of steel forgings may be made only after special application in case of each export for which license is asked.

2. None of the machines, forgings or machine parts for which export licenses may be granted, shall be employed either directly or indirectly in the manufacture of arms or parts thereof, ammunitions, gunpowder, or explosives of any kind destined for export to a country or ally of a country at war with the United States.

SCHEDULE B. *Grains*

<i>Articles</i>	<i>Metric tons</i>
Wheat and rye	300, 000
Oats	120, 000
Barley	31, 500
Corn	140, 000
Malt	30, 000
Oatmeal, semoline, etc.	3, 500
Flour	2, 500
Grass seed, etc.	1, 100
Linseed	2, 000
Oil-cake and oil-seed meal	46, 000

The following special conditions apply to the articles in this schedule.

In addition to the general conditions applicable to all schedules, the following conditions shall apply to grains licensed for export to Switzerland.

1. From Dec. 1, 1917 until Sept. 1, 1918, in accordance with a proposal adopted at the recent meeting of the Section of Revictualing of the Inter-Allied Conference, Switzerland is to receive a guaranteed allotment of 240,000 tons of cereal bread stuffs ($\frac{3}{4}$ to $\frac{2}{3}$ s of which to consist of wheat.)

This allotment is, if possible, to be shipped to the port of Cete and to be supplied under the same conditions as the cereal bread stuff supplied to the allies. These supplies are to be transported on allied ships or on ships supplied to Switzerland by the allies for this purpose, subject to an arrangement made or to be made between the Wheat Executive and the Inter-Allied Chartering executive. This stipulation is not to be considered as in any way affecting the existing arrangements under which the Swiss government agrees to charter neutral ships for Swiss service through the intermediary of the International Chartering Executive.

It is understood that the fourth or the third of the above mentioned allotment of 240,000 tons of cereal bread stuff which may consist of other than wheat, is not to be deducted from the allotments above mentioned.

2. Shipments of grain are to be distributed as evenly as possible throughout the year. Said shipments not to begin prior to November 15th, 1917.

3. All purchases of grain other than wheat made in the United States for export to Switzerland shall be made from the grain corporation in the department of the Food Administrator of the United States and vessels engaged in carrying such tonnage shall receive such grain at any Atlantic or Gulf coast port that may be designated by said grain corporation.

4. It is specifically stipulated and declared by the Swiss government that the imports of grain, food-stuffs or feeding-stuffs in this schedule described shall in no event operate to release any grains, feeding-stuffs, or food-stuffs of Swiss origin, or now contained in Swiss stocks for export from Switzerland to any of the following countries; Germany, Austria-Hungary, Bulgaria, Turkey, Holland, Denmark, Norway and Sweden.

5. The issuance of license for export from the United States to Switzerland of oil-cake and oil-seed meal shall be subject to the proviso that the existing agreement between the Swiss government and the governments of Great Britain and France respecting the supply of condensed milk from Switzerland shall be fully carried out.

6. Considering that the existing stocks of cereal bread-stuffs in Switzerland will be completely depleted by February of the coming year, considering the time required under present conditions for the

transportation of supplies from American ports to Switzerland, a minimum quantity of 30,000 tons of bread grain (to be deducted from the 240,000 guaranteed tons) is to be shipped by the competent organs in the course of the month of December 1917, without prejudice to the origin of these products.

SCHEDULE C. *Mineral Oils, etc.*

<i>Articles</i>	<i>Metric tons</i>
Crude oil, kerosene, gasoline, including 10,500 tons benzene. . .	75, 000
Paraffin, vaseline, etc.	1, 500
Lubricating oils	20, 000
Nitro-benzene, naphthol and its derivatives (for the use of the Swiss government)	up to 300
Bitumen	1, 200

The Swiss government expressly guarantees that none of the substances, articles, commodities and material mentioned in this schedule shall be used directly or indirectly in the manufacture of arms or parts thereof, gunpowder, ammunition, explosives, projectiles and war materials in general, destined for export from Switzerland to any country or ally of any country at war with the United States.

SCHEDULE D. *Sugar*

<i>Articles</i>	<i>Metric tons</i>
Sugar	60, 000

The Swiss government agrees and undertakes to make its purchases of sugar in the western hemisphere through the Food Administrator of the United States in accordance with the regulations of said Food Administrator and from such ports as he may designate. It is understood that the contracts for sugar already made in Brazil can be executed without the intervention of the said Food Administrator. If so determined by the Food Administrator a part of the allotment herein provided for shall be obtained by the Swiss government from Java.

SCHEDULE E. *Leather*

<i>Articles</i>	<i>Metric tons</i>
Raw hides, all kinds	800
Tanned hides	20
Sole leather	2000
Leather for uppers	1000
Leather for harness	150
Leather belting	30
Saddle leather and metal parts	50
Shoes and parts in rubber, leather, etc.	1000

It is expressly stipulated and guaranteed by the Swiss government that ⁷⁴ the export from Switzerland shall be prohibited of leather or rubber, shoes, boots, slippers and parts thereof, soles, uppers, harness, and parts thereof, saddles and parts thereof, and raw hides or prepared leather, to Germany, Austria-Hungary, Bulgaria, or Turkey.

SCHEDULE F. *Cotton*

<i>Articles</i>	<i>Metric tons</i>
Cotton (as cotton or cotton goods)	18, 000

The Swiss government expressly declares and guarantees that it will prohibit the exportation to Germany, Austria-Hungary, Turkey or Bulgaria, of all American cotton including raw cotton, cotton linters, cotton waste, and all cotton goods and fabric containing cotton in any proportion, and of all goods and articles manufactured from cotton.

This declaration shall not apply at present to the goods specified in Article 10(c) paragraphs 4 and 6 of the by-laws of the S. S. S. In accordance with Article 10(c) of the S. S. S. by-laws the right is always reserved to open negotiations with the Swiss government with the object of examining (aided by American experts) the possibility of modifying the provisions of said article 10(c) paragraphs 4 and 6 in conformity with the exigencies of the war.

SCHEDULE G. *Fats*

<i>Articles</i>	<i>Metric tons</i>
Edible fats	8, 000
Cottonseed oil and other edible oils	8, 000
Linseed oil	2, 000
Fatty acids	1, 400
Tankage grease and bone fat	1, 400
Fatty acids for soap, oleine	1, 400
beeswax	25

All purchases in the United States by the Swiss government of fats must be made through the Food Administrator of the United States, or in accordance with instructions, recommendations, or regulations of the Food Administrator.

Where fats or oleaginous substances of any kind are required for use in Switzerland for any purpose for which palm oil may be a substitute, then the allotment herein referred to may be reduced by specifying the quantities of such palm oil which may be obtained by Switzerland from the African west-coast.

⁷⁴ Original reads "that in consideration of the grant of licenses for the quantities in this schedule set forth, the export from."

SCHEDULE H. *Articles not Included in the Above Groups*

Articles	M. T.	Remarks
Alcohol, absolute		Subject to approval of Munitions Board
Coal and wood tar	50	
Canned vegetables	75	
Poultry, not over	2, 500	As may be determined
Dried fruits	2, 000	
Tobacco	8, 700	
Jute	1, 200	Subject to British guaranty
Jute thread	300	" " " "
Starch, industrial, fecula, etc	5, 100	
Turpentine	1, 600	
Celluloid	60	To be obtained in U. S. if not from France
Sporting arms and ammunition	47	
Miners wicks, lamp	100	
Acetic acid, lactic acid, pyridin bases, etc., up to.	1, 300	Acetone excluded
Bromine and iodine for pharmaceutical use, up to.	69	
Bicycles and automobiles		Occasional orders
Sausage casings, except beef casings, etc., up to.	600	
Feathers, fowl	300	
Telegraph and telephone equipment.	100	
Machines for agriculture	1, 540	
Pure rubber, up to	270	To be obtained from Great Britain
Articles of rubber, including toys, erasers, suspenders, garters etc.	110	To be obtained in the United States ⁷⁵ if it cannot be delivered from France. Contingent upon receiving permit from G. Britain for rubber, quantities according to agreement.
Automobile tires	110	For federal army only
Sashes and doors		To be determined
Cabinet lumber		To be determined
Raw furs, domestic		By agreement
Kodak films, up to	300	
Dental and other special apparatus.		By agreement
Asbestos	1000	
Tanning materials	1000	
Binding twine	1000	
Sisal		
Chemical products for pharmaceutical use.	160	By agreement
Oil and wax cloth	20	
Liquid and solid extract for dyeing purposes.	400	
Hair felt	50	
Denatured formaldehyde	300	

United States of America: WAR TRADE BOARD
VANCE C. MCCORMICK, *Chairman*

Switzerland: A. CAILLER
GROBET-ROUSSY
HEER

December 5, 1917.

⁷⁵ Original reads "to be obtained here."

297

*The Secretary of State to the Ambassador in Great Britain (Page)*⁷⁶

[Telegram]

WASHINGTON, December 5, 1917—6 p. m.

5961. For McCormick from War Trade Board:

"Our number 17: In view of growing feeling on part northern neutrals against our embargo Board are in favor of allowing one or two cargoes to be sent forward at once to Norway, Denmark, Holland and Sweden of selected commodities such as kerosene or coffee or lubricating oil. We believe this would aid negotiations and create better feeling on the part of people in these countries, offsetting some of the German influence. A decision to do this now should have a good effect in these countries at the Christmas season. Please cable your advice tomorrow as must act promptly."

LANSING

298

*The Secretary of State to Diplomatic Officers in Latin American Countries*⁷⁷

[Circular telegram]

WASHINGTON, December 5, 1917.

Repeat Consuls and transmit by mail to Missions in contiguous countries.

Following is a list compiled by the War Trade Board of firms with whom it is illegal to trade under the Enemy Trading Act without license. The list [is composed] of enemies and allies of enemies other persons, firms and corporations who there is reasonable cause to believe have acted directly or indirectly for, on account of, on behalf of, or for the benefit of enemies or allies of enemies. This does not purport to be complete list. Any person, firm or corporation who there is reason or cause to believe is enemy or ally of enemy, or, in such trade is acting for, on account of, on behalf of or for the benefit of enemy or ally of enemy is not relieved from punishment and penalty imposed by Enemy Trading Act by reason of fact that name of any such person, firm or corporation does not appear upon this list.^{77a}

LANSING

⁷⁶ File No. 600.119/455a; For. Rel., 1917, supp. 2, p. 1080.

⁷⁷ File No. 763.72112A/13; For. Rel., 1917, supp. 2, p. 997.

^{77a} Lists not printed; in the telegram to each country only the list of firms in that country was included. The full list, which "contains the names of some 1,600 concerns in Latin America," is printed, together with a prefatory statement by the War Trade Board, in *The Official Bulletin*, Washington, Dec. 5, 1917 (vol. 1, no. 176), pp. 8-16.

299

*The Secretary of State to Diplomatic Officers in Latin American Countries*⁷⁸

[Circular telegram]

WASHINGTON, December 13, 1917—6 p.m.

Instruct consuls as follows:

"Pending receipt of mailed instructions, investigate as rapidly as practicable each firm in your district listed on Enemy Trading List and telegraph names of any that in your opinion should be eliminated as not falling within any of following classes: (1st) Having branch firms in Germany; (2d) engaged actively in trade with enemy firms; (3d) acting or having acted as cloak for enemy firms or firms on Enemy Trading List; (4th) engaged in active German or anti-American propaganda; (5th) having definitely given aid or comfort to the enemy; (6th) having partners resident in Germany. Concisely state pertinent facts upon which your opinion is based. In interest of advancement American foreign trade forward immediately brief list of principal firms free from enemy character, activity, or association who can take over American trade of firms on Enemy Trading List. Telegraph names when urgently necessary."

[LANSING]

300

*The Secretary of State to the Ambassador in Great Britain (Page)*⁷⁹

No. 5601

WASHINGTON, December 13, 1917.

SIR: The Department encloses herewith copies of telegrams dated October 11 and November 22, 1917, received from the Consul General with reference to a proposed arrangement with the British Government for the release of American owned goods which were seized by British authorities prior to the entrance of the Government of the United States into the war, and also a copy of his telegram of November 1, 1917, giving a list of such goods.⁸⁰

Questions in relation to the seizures of such goods have been and are now the source of considerable annoyance to this Government and doubtless also to the British Government. In many instances the amounts involved are so small that they do not justify any considerable expense on the part of the owners to obtain the release of the goods, while in other instances the goods seized are of such value that their continued detention is of serious consequence to American citi-

⁷⁸ File No. 703.72112A/180a; For. Rel., 1917, supp. 2, p. 1003.

⁷⁹ File No. 300.115/13529.

⁸⁰ This list had been compiled by the Consul General in accordance with instructions of the Department, May 29 and June 14, 1917, not printed. (File Nos. 763.72112/3729a, 3729a supp.)

zens and American industries. Moreover it seems possible that a material portion of the goods which are not detained by the British authorities might, if released, be utilized to advantage in furtherance of the common cause in which the two Governments are united. Among such articles might be mentioned particularly leather and hides, oils, cotton goods, dental and surgical instruments, soap and cleansing materials, machine and auto parts, tools and hardware, rosin, babbitt and other metals, seeds, chemicals, buttons, hair and fibre. Many articles of this sort are now in great demand in the United States where they are used in connection with the manufacture or preparation of supplies for the Allied Armies in the field. In these circumstances the continued retention of these articles in Great Britain by the British Government is at cross purposes with the general aims of both Governments, and consequently and naturally creates here among the trades concerned an impression of reluctant co-operation on the part of Great Britain which is not understood and is difficult to explain. The Department, therefore, considers that it would be very desirable if some arrangement could be reached for an expeditious and equitable settlement of all pending cases of seized goods, including cases in which goods have already been released on deposit of their value with the prize court.

You are instructed, therefore, to take this matter up with the Foreign Office at an early opportunity and endeavor to ascertain whether the British Government would be willing to enter into an arrangement of this character and, if so, whether they would be prepared to indicate a method of procedure that might be adopted.

I am [etc.]

ROBERT LANSING

301

*The Acting Chairman of the War Trade Board (Munson) to the Danish Minister (Brun)*⁶¹

WASHINGTON, December 14, 1917.

DEAR SIR: Supplementing our talk of today, this is to propose to you that the War Trade Board desires, as an evidence of the good will of the American people towards the Danish people, that we shall allow certain shipments, which shall be of benefit to the Danish people as a whole, to go forward promptly. This is done at this particular season of the year as an expression of Christmas good wishes.

We are prepared to license some thousands of tons of kerosene and of coffee on such ships as you may designate, say two cargoes, and only ask in return that you charter to us, at the present current

⁶¹ File No. 659.119/151; For. Rel., 1917, supp. 2, p. 1101.

market prices, an equivalent amount of tonnage for either two West Indian round or one South American round trip, which is estimated to occupy about the same time as the Danish vessels going to Denmark would take for the round trip.

We realize in selecting the above commodities that the nights are long in Denmark at this period of the year, and that kerosene may, therefore, be more broadly appreciated by and useful to your people than some other commodity which might be selected. We also know your national characteristic of coffee drinking.

We shall be glad to have you express this proposal to your Government by cable,⁸² and to have you indicate, if you are in accord with the proposal, as we understand you to be, which vessels would be more suitable for the purposes outlined.

With highest assurances of my regard [etc.]

FRANK C. MUNSON

302

*Report of the Representative of the Navy Department at the Inter-Allied Conference (Benson)*⁸³

1. The following is a brief summary of what I believe to have been accomplished from a strictly naval point of view during the visit of the Mission to Europe:

(a) Decision to send division of battleships to join British Grand Fleet immediately.

(b) Tentative agreement to send entire Atlantic Fleet to European Waters in the Spring provided conditions warrant such action.

(c) A joint decision to undertake with the British the closing of the North Sea by establishing and maintaining a mine barrage.

(d) An assurance by the British Government that the Straits of Dover will be efficiently closed, and that steps will be taken immediately with this object in view.

(e) Decision upon a definite plan of offensive operations in which our forces will participate in the near future.

(f) The practical abandonment of the office of Naval Attaché in London during the war and the ordering of the Commander of the U.S. Naval Forces Operating in European Waters as naval attaché in addition to present duties. Decision to follow a similar course in France.

(g) Agreement entered into with British Admiralty which permits the officer commanding the U.S. Naval Forces Operating in European Waters to attend the morning conference in Admiralty.

(h) An agreement to have three of our officers detailed for duty in the planning section of the British Admiralty in order to secure

⁸² A similar offer was presumably made to Norway, Sweden, and the Netherlands. See documents 297 and 310.

⁸³ File No. 763.72/13416; For. Rel., 1917, supp. 2, p. 384.

This report was prepared as a memorandum for Colonel House, head of the American Mission to the Inter-Allied Conference, which was held at London and Paris Nov. 29-Dec. 3, 1917.

closer cooperation and in order that we may have full information at all times as to just what plan of operations the British Admiralty may be considering.

(i) The formation of the Inter-Allied Naval Council.

(j) Discovery of the necessity for and the decision to reorganize our naval forces in France so as to properly administer the several fields of naval activity and so coordinate their work that the maximum efficiency may be obtained. The ports of Brest, St. Nazaire, and Bordeaux will be separately administered, so far as the Navy is concerned, and will be coordinated under the command of the Senior Naval Officer in France.

(k) Decision to organize an efficient secret service along the French coast in order to reduce the activity of enemy spies to a minimum and thereby provide for the safety of our ships and the security of the lives of our nationals.

2. As the result of my intimate contact with the general situation abroad, and particularly with the naval phase of it, I recommend the following:

First: That steps be taken to increase our patrol and escort forces in France. In order to accomplish this and in order to supply destroyers for operations in which we should participate in the North Sea our destroyer building program should be hastened in every possible way.

Second: That every effort be made to push to completion the necessary material for naval aviation and the training of the necessary personnel for aggressive operations with the British against the enemy in accordance with plans agreed upon. Offensive operations in the air I consider a necessary preliminary to other forms of naval offensive against enemy bases.

Third: That steps be taken to establish an efficient naval advance base in the Azores.

Fourth: That steps be taken immediately to increase the port facilities for handling ships and for discharging cargoes and troops at all of the French ports which we propose using.

Fifth: That a coordinate plan satisfactory to the War Department, the Navy Department, and other interested Departments of the Government be drawn up which will provide for the efficient administration of the French ports which we propose using, and further, that once this plan is decided upon it be issued in the form of an Executive Order for the guidance of all concerned.

3. My investigations and studies of the situation in England and France, and the opinion which I have reached as the result of conferences with the naval representatives of Italy in Paris, convince me that we can expect no additional naval assistance whatever from the continental European allies. I have been unable to escape the conviction that all countries opposed to Germany in this war, except ourselves, are jealous and suspicious of one another. They believe, however, in the sincerity and unselfishness of the United States; and feeling thus, they are not only willing for the United States to take

the lead in matters which affect our common cause; but they are really anxious that we should dominate the entire allied situation, both as regards active belligerent operations against the enemy, and economically. From intimate contact with the actual war operations and from a knowledge of the European situation which is based upon secret and what I consider reliable information, I am convinced of the possibility of the burden of the entire war sooner or later devolving upon the United States and Great Britain—and this practically means the United States. With these facts before me I feel that every form of assistance which the United States can give to any or all of the allies to sustain them in such a manner that they can continue the war means a continuation of the war (so far as we are concerned) on foreign soil; and geographically advantageous to ourselves. In addition it means that every day that we can keep any of the European allies in the war, just so much of the burden is being borne by that ally which otherwise would have to be borne by ourselves.

4. For this reason I believe that no time should be lost nor should any effort be spared to assist all the allies at the earliest possible date and to the utmost extent by any means which will help towards the prosecution of the war.

5. In order for us to efficiently render assistance to the allied cause in keeping with our resources and expressed determination a logical administration of tonnage having in view the defeat of Germany is imperative. It matters not what flag any ship or ships may sail under provided they are engaged in carrying out well-defined plans for the accomplishment of the above purpose which meet with the approval of the several governments concerned.

W. S. BENSON

Admiral, U. S. Navy

Chief of Naval Operations

ON BOARD U. S. S. "MT. VERNON",

December 14, 1917.

303

*Protocol Added to the Agreement of June 9, 1917, Relating to Silks and Silk Goods, December 17, 1917*²⁴

[Translation]

The Delegates of the American, British, French and Italian Governments met in Paris in order to determine the putting into force of the Agreement of June 9th, 1917 relative to silks and silk goods:

²⁴ File No. 600,001/185; For. Rel., 1917, supp. 2, p. 1197.

Received Jan. 7, 1918, with despatch no. 5891 of Dec. 21, 1917, from the Ambassador in France, which is not printed. Agreement of June 9 printed in part, document 255.

1°—They took note of the subsequent decision of the Italian Government to participate in the operation provided for in Article II of the above mentioned agreement by making payment of a quota equal to that of the other allied Governments who signed the agreement.

The quotas to be paid, the expenses and risks of the operation will thus be divided into four parts and no longer into three parts between the interested States.

2°—They also took note of the fact that as a consequence of the negotiations conducted between the French and Italian Governments and the intervention of technical Delegates from both parties, it had been admitted that the organization and working of the interallied purchase bureau provided for in Article II, IX and X of the agreement of June 9th, 1917, would be realized in accordance with the provisions of the regulation added to the present Protocol.⁸⁵

3°—In accordance with the provisions of Article IX of the Agreement of June 9th, 1917, the American, British, French and Italian Governments will designate as soon as possible, and in the proportion of one or two delegates for each country intervening, the representatives destined to compose a Committee which will be entrusted with the duty of assuring the liaison between the bureau at Lyons and the interested Governments.

This Committee, which will itself fix the practical conditions of its working, will meet either at Lyons or at Paris as often as one of the members or the bureau at Lyons may require it.

The Presidency will be given to the French Delegate.

[4.] The Delegates promised to submit as soon as possible to the approbation of their respective Governments the present Protocol, the ratification of which will comprise, *ipso facto*, that of the Agreement of June 9th, 1917.⁸⁶

⁸⁵ Regulation not printed.

⁸⁶ Telegram no. 4235 (File No. 600.001/255), June 18, 1918, from the Ambassador in France, contains the following statement:

"I am informed by Ministry of Blockade that under date of January 8th, the British Government notified the French of its adhesion to the protocol of December 17th, 1917; that adhesion of the Italian Government is implied by the evidences that it subscribed on April 17th, to deposit its quota of 2,500,000; furthermore the French Competent Departments have been instructed to settle the details of their Governments' participation in the expenses of the inter-Allied Bureau, thus implying the recognition of the said agreement by France; that the Ministry of Blockade therefore assumes that the status of it is similar to the two latter; and the statement made by Mr. Bliss, on receipt of the Department's telegram number 2934 December 8th, 1917, that the Government of the United States was ready to pay its quota, is understood as the acceptance of the protocol by the American Government."

Done at Paris in four originals by the Representatives of the four contracting Governments, on December 17th, 1917.

<i>United States of America</i>	ROBERT WOODS BLISS
<i>France</i>	A. LEBRUN. DELAUVAUD. CHASSERIAU.
<i>Great Britain</i>	JOSEPH ADDISON J. MEADOWS SMITH
<i>Italy</i>	ANT. DELL'ABBADESSA.

304

The Secretary of State to the Ambassador in France (Sharp) ⁸⁷

[Telegram]

WASHINGTON, December 21, 1917—3 p.m.

2971. For Col. Dawes.

Please advise at once whether you have been granted licenses for exports of supplies from Spain. The embargo upon exports from this country to Spain is becoming embarrassing and we desire to remove same unless it is absolutely necessary for your purpose.

Advise also progress made in organization of Purchasing Committee recommended by the Allied Conference in Paris.

The following cable just sent to Ambassador Willard:

"Your cable December 12th recommending granting of license for certain exports. McCormick does not understand this request in view of your recommendation to him to withhold licenses for exports until satisfactory arrangements have been made for the purchase of materials from Spain for Allied account in France. Please advise us whether such purchases are being made and Spain permitting their export. It is becoming embarrassing here to withhold licenses for exports from this country in accordance with arrangements made with McCormick, and this plan will be discontinued at once unless it is absolutely necessary to secure supplies for ourselves and Allies in France.

In view of the great importance of our securing Spanish ship tonnage would it be advisable to open negotiations for agreement between Spain and Allies covering tonnage question, as well as purchase of supplies. If this policy determined upon is it wise for us to continue as at present along the lines agreed upon by McCormick and yourself in Paris."

LANSING

⁸⁷ File No. 652.119/369a; For. Rel., 1917, supp. 2, p. 1220.

*The Secretary of State to the Ambassador in Spain (Willard)*⁸⁸

[Telegram]

WASHINGTON, January 2, 1918—8 p.m.

812. Department's views of the various phases of the Spanish situation are as follows:

1. Purchases in Spain for the account of the American Expeditionary Force: With the approval of the Secretary of War, the Department has nominated as its representative on the Inter-Allied Board for Purchases in Spain, Colonel Dawes, or such appointee as he may designate. Department is perfectly satisfied to have Inter-Allied Board for Purchases in Spain organized in such manner as the members deem wise and if Dawes or his appointee believes negotiations for purchases for American account should be carried on through Maucière this Department has no objection whatever provided Maucière keeps in close touch with Ambassador Willard.

2. Financial arrangements incident to purchases in Spain for the account of the British, French and the United States: Department has been informed that Lord Cunliffe is proceeding to Spain in behalf of British Government. Inasmuch as Assistant Secretary of the Treasury Crosby is at present in Europe, Department believes that you should consult him and request that he or his appointee co-operate on financial side of any negotiations that may be entered into.

3. Embargo operated by the War Trade Board for the purpose of assisting both first and second, *supra*: Department is not willing to permit this country to be represented in such negotiations by M. Maucière or any other person not a citizen of this country. The negotiation of a comprehensive trade agreement between the War Trade Board and the Spanish Government providing for reciprocal exchanges of permits to export between this country and Spain is highly desirable and you are authorized to begin such negotiations at the earliest possible date, working in conjunction with persons representing this country under first and second, *supra*. War Trade Board will be glad to have any suggestions you may care to make as to persons either in Europe or in this country whom you desire to have help you in this matter.

First, second, and third *supra*, are so closely related that negotiations with respect to all should be carried on simultaneously.

For your preliminary information, Department has been requested by the War Department to secure the assistance of the Spanish Government in expediting the purchasing and transporting from Spain to France during the next six months the following supplies and materials for the account of the American forces in France:

⁸⁸ File No. 652.119/393a; For. Rel., 1917, supp. 2, p. 1228.

Blankets		300, 000
Mules		20, 000
Lumber and timber products	feet	10, 000, 000
Beans	tons	3, 000
Onions	do	4, 000
Raisins	do	2, 000
Charcoal	do	10, 000
Rice	do	2, 000
Saddle blankets		20, 000
Canvas	yards	240, 000
Castile soap	pounds	20, 000
Grease	do	100, 000
Oils	gallons	20, 000
Bridles, leather background		20, 000
Collars, " "		20, 000
Harness leather	pounds	100, 000

The War Department states that the foregoing is based on present information as to possibilities of Spanish market and on requirements of our own forces in France.

War Trade Board for past six weeks has issued no export licenses for cotton for Spain. Such cotton as you mention in your 965, December 31, noon, is exported under a 60-day license issued more than six weeks ago.

You are authorized discretely to inform the Foreign Office verbally pursuant to suggestion made in your 960, December 29, 11 a. m., that on account of our growing needs and the needs of our co-belligerents and after January 1, 1918, the embargoes against the exportation of certain commodities as proclaimed by the President under date of July 9 and August 27, 1917, respectively, will be enforced and that no amendment or exceptions thereto will be made except in exchange for reciprocal permits to export those articles, the exportation of which is prohibited here.

War Trade Board is willing to grant licenses along lines suggested in your No. 960, December 29, 11 a. m.

In your negotiations with the Spanish Government under third, *supra*, you should bear in mind the desirability of securing from Spain charters of such Spanish tonnage as is not absolutely necessary to Spain. If a satisfactory commercial agreement can be entered into with Spain, there will, in all probability, be a considerable surplus after providing for all Spanish needs, of which surplus it should be our aim to secure a share in return for concessions we may make in issuing export licenses. Department believes that it will be very difficult to secure this tonnage for Allied needs from the Spanish, but wishes you to have this point in mind during your negotiations.

LANSING

306

*The Secretary of State to the Salvadoran Minister (Zaldivar)*⁸⁹

No. 26

WASHINGTON, January 7, 1918.

SIR: I have the honor to acknowledge the receipt of your two notes, respectively of December 14 and December 17, in regard to your Government's desire to have the Banco Salvadoreño removed from the War Trade Board's enemy trading list, and in reply to inform you that, in view of the guarantees given by the Salvadorean Government to the Government of the United States, that in future the operations and policy of the bank will be neutral in every particular and that such measures as may be necessary in connection with that institution will be taken by it to make this guarantee wholly effective, this bank has been withdrawn from the Enemy Trading List.

The War Trade Board inform this Department that as late as July 16, 1917, the Banco Salvadoreño wrote the Banco Aleman Transatlantico, Barcelona, Spain, stating that they wished to remit funds to Germany by wireless via Nauen. The agent of the Bank, Cuno G. Mathies, proposed to remit funds for various parties in Germany.

The Department requests that the Bank be instructed to furnish the American Legation in San Salvador with a statement as to the Bank's personnel, more especially regarding the present manager.

Accept [etc.]

ROBERT LANSING

307

*Message of the President to Congress, January 8, 1918*⁹⁰

[Extract]

We entered this war because violations of right had occurred which touched us to the quick and made the life of our own people impossible unless they were corrected and the world secured once for all against their recurrence. What we demand in this war, therefore, is nothing peculiar to ourselves. It is that the world be made fit and safe to live in; and particularly that it be made safe for every peace-loving nation which, like our own, wishes to live its own life, determine its own institutions, be assured of justice and fair dealing by the other peoples of the world as against force and selfish aggression. All the peoples of the world are in effect partners in this interest, and for our own part we see very clearly that unless justice be done to others it will not be done to us. The programme of the

⁸⁹ File No. 311.165B22/4; For. Rel., 1917, supp. 2, p. 1007.

⁹⁰ *Congressional Record*, vol. 56, pt. 1, p. 690. For. Rel., 1918, supp. 1, p. 14.

world's peace, therefore, is our programme; and that programme, the only possible programme, as we see it, is this:

I. Open covenants of peace, openly arrived at, after which there shall be no private international understandings of any kind but diplomacy shall proceed always frankly and in the public view.

II. Absolute freedom of navigation upon the seas, outside territorial waters, alike in peace and in war, except as the seas may be closed in whole or in part by international action for the enforcement of international covenants.

III. The removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance.

IV. Adequate guarantees given and taken that national armaments will be reduced to the lowest point consistent with domestic safety.

V. A free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight with the equitable claims of the Government whose title is to be determined.

VI. The evacuation of all Russian territory and such a settlement of all questions affecting Russia as will secure the best and freest cooperation of the other nations of the world in obtaining for her an unhampered and unembarrassed opportunity for the independent determination of her own political development and national policy and assure her of a sincere welcome into the society of free nations under institutions of her own choosing; and, more than a welcome, assistance also of every kind that she may need and may herself desire. The treatment accorded Russia by her sister nations in the months to come will be the acid test of their good will, of their comprehension of her needs as distinguished from their own interests, and of their intelligent and unselfish sympathy.

VII. Belgium, the whole world will agree, must be evacuated and restored, without any attempt to limit the sovereignty which she enjoys in common with all other free nations. No other single act will serve as this will serve to restore confidence among the nations in the laws which they have themselves set and determined for the government of their relations with one another. Without this healing act the whole structure and validity of international law is forever impaired.

VIII. All French territory should be freed and the invaded portions restored, and the wrong done to France by Prussia in 1871 in the matter of Alsace-Lorraine, which has unsettled the peace of the

world for nearly fifty years, should be righted, in order that peace may once more be made secure in the interest of all.

IX. A readjustment of the frontiers of Italy should be effected along clearly recognizable lines of nationality.

X. The peoples of Austria-Hungary, whose place among the nations we wish to see safeguarded and assured, should be accorded the freest opportunity of autonomous development.

XI. Rumania, Serbia, and Montenegro should be evacuated; occupied territories restored; Serbia accorded free and secure access to the sea; and the relations of the several Balkan states to one another determined by friendly counsel along historically established lines of allegiance and nationality; and international guarantees of the political and economic independence and territorial integrity of the several Balkan states should be entered into.

XII. The Turkish portions of the present Ottoman Empire should be assured a secure sovereignty, but the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development, and the Dardanelles should be permanently opened as a free passage to the ships and commerce of all nations under international guarantees.

XIII. An independent Polish state should be erected which should include the territories inhabited by indisputably Polish populations, which should be assured a free and secure access to the sea, and whose political and economic independence and territorial integrity should be guaranteed by international covenant.

XIV. A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike.

308

*The Secretary of State to the Ambassador in Spain (Willard)*⁹¹

[Telegram]

WASHINGTON, January 8, 1918—7 p.m.

818. The War Trade Board is now withholding licenses for practically all commodities destined for Spain in accordance with your previous instructions. There are more than 2,000 applications now on file for licenses which the Board is withholding, including among others 811 applications for \$2,500,000 worth of metals, machinery and instruments, 528 applications for \$1,500,000 worth of chemicals, drugs and dye stuffs including explosives, and 270 applications for

⁹¹ File No. 652.119/404a; For. Rel., 1918, supp. 1, p. 1658.

\$2,000,000 worth of food and feed stuffs, and smaller amounts of miscellaneous commodities representing an aggregate value of \$6,500,000.

Could you not bring sufficient pressure to bear by the withholding of licenses for only cotton and oil and allow the War Trade Board to grant licenses for all other commodities in accordance with the usual process. The strict embargo on all commodities will be maintained if you think it is necessary but it is felt that you may be able to bring sufficient pressure to bear by withholding only cotton and oil or at least by withholding a more limited number of commodities.

Please advise us immediately with regard to this matter.⁹²

LANSING

309

*The Secretary of State to the Ambassador in Great Britain (Page)*⁹³

[Telegram]

WASHINGTON, *January 10, 1918—4 p. m.*

6210. Following for Sheldon from War Trade Board:

Your 8161 through Department concerning discontinuance of navicerts. Now that London office is organized and you have settled satisfactorily question of using facilities of Embassy for cables, we are prepared to proceed with elimination of navicerts for shipments to Norway, Sweden, Denmark, Holland, Faroe Islands and Iceland upon general plan suggested in your cable No. 34 of December 4th and Frothingham's letters of October 17 to Richards, and Frothingham's memorandum for McCormick of November 17 with only those modifications noted in detail below, and put same into effect on February 1st. State Department will cable Embassy London to make informal representation to British Government in accordance Frothingham's cable No. 34.

The operation will be as follows:

1. War Trade Board, Washington, will cable daily to our representative in London the particulars of all license applications covering shipments to countries above mentioned, excluding those refused here by our War Trade Intelligence or for reasons of conservation. The particulars cabled will be: (1st) application number, which, if license granted, will be license number; (2d) shipper's name; (3d) quantity; (4th) commodity; (5th) net weight; (6th) consignee; (7th) consignee's address; and (8th) purchaser, if different from consignee.

⁹² On Jan. 11 the Ambassador in Spain replied in part as follows:

"Embassy firmly of opinion, in which Major Belmont concurs, that for any licenses for embargoed articles to be issued by War Trade Board would be fatal to pending negotiations." (File No. 652.119/410; For. Rel., 1918, supp. 1, p. 1658.)

⁹³ File No. 656.119/122; For. Rel., 1918, supp. 1, p. 939.

2. Our representative in London will present foregoing particulars to British War Trade Intelligence and British War Trade Statistical Department.

3. British War Trade Intelligence will report evidence as to consignee.

4. British War Trade Statistical Department will report as to advisability of issuing license so far as concerns quantities previously licensed and total rationed quantity.

5. British Contraband Committee, together with our representative in London will then consider evidence submitted and record their opinion with him as to approval or disapproval of applications in question.

6. Our representative in London will then cable War Trade Board. Washington the findings of Contraband Committee, with which findings it will be assumed our representative in London agrees, unless otherwise stated. Should our representative in London not agree with opinion of Contraband Committee, reasons for disagreement will be cabled to Washington. If joint opinion is disapproval, reasons should be cabled as per code hereafter suggested.

7. War Trade Board at Washington, on receipt of reports from our representative in London, will then decide whether licenses shall be granted or refused, after considering findings of Contraband Committee and any other recommendations from London. If War Trade Board Washington agrees with London, no further word will be sent to London who may therefore assume recommendation from London has been followed. If War Trade Board decides to issue or refuse license contrary to recommendation from London, they will advise London weekly of action taken.

8. All these routine messages dealing with export applications will be numbered serially . . .⁹⁴

It is important that we are in accord in every detail of this arrangement and you should immediately confirm this cable, stating that you are prepared to put this system into operation on February 1st, as above.

Referring to calls at Halifax, we have for several weeks been searching all vessels bound for Scandinavia and Holland through our Navy Department; and arrangements are being completed for elimination of calls at Halifax, which elimination we will insist upon.

Please send all communications from you or your staff to us through State Department. We have made arrangements to expedite deliveries.

LANSING

⁹⁴ Description of code to be used in these messages omitted.

*The Shipping Board Representative on the War Trade Board (Munson) to the Counselor for the Department of State (Polk)*⁹⁵

WASHINGTON, January 16, 1918.

DEAR MR. POLK: I understand you have requested a memorandum of how the Christmas idea stands at present.

Denmark: We licensed 1000 tons of coffee and 3000 tons of kerosene. In exchange the Danish Government chartered to the United States Shipping Board the steamship *Annam* of 10,400 tons deadweight, which vessel is now making coastwise voyages to relieve the coal situation and thereafter will make voyages to the west coast of South America bringing back nitrates.

Sweden: The arrangement is that we license 5500 tons of kerosene and 2500 tons coffee which are to go forward on the steamships *Stockholm* and *Bris* at an early date. In exchange this Government has chartered to us the steamship *Götaland*, 6000 tons deadweight, the steamship *Sigrid*, 4200 tons and the steamship *Magda*, or a substitute, of 3300 tons deadweight. The last two are for two round trips to the West Indies and the *Götaland* is to go to the east or west coast of South America, in the option of the Shipping Board.

Norway: This country has been slower in working out the Christmas idea but they have accepted it in principle and are going to name their boats very shortly. Cables seem to have been slower in being passed between Doctor Nansen and his Foreign Office.

The feeling created has been very good and it is interesting for you to know that since the British approved the Christmas idea on the 24th of December they have come around to the belief that a larger amount of all commodities should be licensed to the different countries as a matter of keeping good feeling and preventing German propaganda having too much influence.

The Dutch arrangement will also soon be completed and I will be glad to give you further memoranda when it has been finished.

The feeling of each country is expressed in a paragraph that I quote from the letters [of their representatives] as follows:

Denmark:

"From newspaper reports and Press telegrams you will already have noticed how deeply this generous offer and Christmas gift has been appreciated in Denmark, and the Danish Government as a matter of fact immediately cabled me the instruction to express to you their sincere sense of gratitude together with the assurance that the feelings of good will and of Christmas good wishes, to which you

⁹⁵ File No. 659.119/184; For. Rel., 1917, supp. 2, p. 1115.

had given such a unique and in its kindness thoroughly American expression, were more than reciprocated by the Government and people of Denmark."

Sweden:

"We desire to express to you the sincere thanks from our Government for the kindness you have shown in giving license for these commodities and ships during the time of hard distress in Sweden. This act of yours, we assure you, will be highly appreciated by the Swedish people."

Cordially yours,

FRANK C. MUNSON

311

*The Secretary of the Navy (Daniels) to the Secretary of State*⁹⁶

WASHINGTON, January 16, 1918.

SIR: Referring to your letter of November 10, 1917, in regard to the conventions entered into by Great Britain, France, Russia and Italy concerning prizes captured during the present European War, and requesting an expression of my views as to whether or not it would be desirable for this Government to enter into a separate agreement of this nature with Great Britain or with any of the other allied European Powers, I have the honor to reply as follows:—

Because of the great distances of the maritime war zones in Europe from United States ports, in the event of capture of enemy vessels by our Navy it would be undoubtedly a great convenience to have at hand in the ports of our allies the necessary Admiralty Court machinery promptly to adjudicate in the matter of such prizes. Because, however, of the character of this war, the absence of enemy merchant vessels from the high seas and the small percentage of war vessels which may be captured and not sunk, it is not anticipated that serious complications will arise. In any event, there is ample authority and precedent for such vessels as are captured being taken into a port of our allies and there held for convoy to a United States port; or, if circumstances are imperative, the vessel may be there sold, and the proceeds sent into a United States Admiralty Court for adjudication. (Revised Statutes, section 4615; *Jecker v. Montgomery*, 13 Howard, 490; Moore, Vol. 7, page 590).

Accession to this convention in its entirety by the United States may give rise to complications in the following regards:—

Japan is not yet reported to have become a party to the convention. Accession to the convention, therefore, on the part of the

⁹⁶ File No. 763.72112/6419; For. Rel., 1918, supp. 1, p. 922.

United States may result in different rules of procedure in the Atlantic and Pacific.

Complications may arise from the fact that the prize court systems of the allies are dissimilar.

In some respects the convention of November 9, 1914, would supersede the Treaty of 1871 between the United States and Italy.

It is doubtful whether the United States would be able to fulfil existing treaty obligations toward certain neutral states, e. g., Sweden, 1783, Articles 10, 25, if bound by this convention.

More important than all might be a seeming approval of certain practices and principles against which the United States has already protested, as in the note from the Secretary of State to Ambassador W. H. Page, dated October 21, 1915.^{96a}

The Navy Department is therefore inclined to the opinion that accession to this convention at this time is inadvisable, especially as it involves acceptance of certain practices and principles against which the United States has protested. If the character of the war should change so as to involve many captures by the United States and one or more allied powers, and if complications should arise as to the disposition of such captures, the United States may then accede to the convention, Articles 3, 4, 5, 6, and 7, take action to make Article 1 operative and reserve Article 2.

There is appended hereto for your information a memorandum treating in more detail the articles of the convention and the complications which may arise should the United States at this time become a party thereto.⁹⁷

Sincerely yours,

JOSEPHUS DANIELS

312

*The Acting Secretary of State to Consular Officers in Latin American Countries*⁹⁸

[Circular telegram]

WASHINGTON, January 18, 1918—8 p. m.

Decline to certify invoices for persons or firms whose names are on Enemy Trading List and for persons known to be acting as cloaks for said listed firms except where it is alleged that shipment is covered by license of War Trade Board. Sales of local branches of firms in United States to firms on Enemy Trading List are not to be objected to when alleged to have been duly licensed. All firms suspected of misrepresentation should be promptly reported. Like

^{96a} Document 131.

⁹⁷ Not printed.

⁹⁸ File No. 763.72112/6676; For. Rel., 1918, supp. 1, p. 1014.

treatment should be accorded to firms alleging possession British or French [or Italian ⁹⁹] license.

Notify all consular officials.

POLK

313

The Acting Secretary of State to the Ambassador in Great Britain
(Page)¹

[Telegram]

WASHINGTON, January 19, 1918.

6297. For Sheldon [from War Trade Board]:

No. 27. Following proposal was delivered by Wartrabord to Danish Minister on January 17. Repeat to Copenhagen:

In our proposal to you of November 27th we offered to license the following commodities which we understood constituted your needs, these being in metric tons unless otherwise stated:

[List of Commodities not printed.]

Group 1, Subdivision 1: Of the foregoing commodities you request the following increases:

Coffee to 16000 tons,

Tea to 600 tons.

Spices to 500 tons,

Pepper to 168 tons,

Rubber, rubber goods, rubber shoes and rubber tires to 500 tons. This quantity to be increased to 700 tons, provided Denmark can prove her real need of this quantity.

Every neutral nation in Europe is looking to us in some measure to meet its needs and we have not supplies in sufficient quantities to meet these requirements in addition to our own and those of our associates in this war. Under these distressing conditions the United States is denied the privilege of generosity and in the light of its own and its associates' situation this Government thinks the desire it evidenced to be just and fair, by its proposal of November 27th, should have made a stronger appeal to Denmark than seems to be the case. However, we reluctantly accede to your request for the foregoing increases upon the condition of your full acceptance of all the conditions herein.

In view of depleted tonnage facilities, we suggest that you should obtain your requirements for various woods from Norway or Sweden. In no event could we agree to leave this question open to be settled in accordance with your future needs, but supplies for indoor or cabinet work that must be obtained overseas up to the foregoing amount may come via America except that no aeroplane material can be granted.

⁹⁹ Added in accordance with circular telegram of Mar. 9, 1918 (File No. 763.72112/6676; For. Rel., 1918, supp. 1, p. 1014).

¹ File No. 659.119/185a; For. Rel., 1918, supp. 1, p. 1299.

We do not think your suggestion that future negotiations for further goods and rations may always be possible has any proper place in the proposed agreement, as its insertion would negative the idea of definitiveness. Requests for modifications of the agreement by either side can always be made.

Inasmuch as we are unaware of the quantity of merchandise and goods you have already bought, we cannot concede your right to free them from the restrictions imposed hereby with respect to all commodities.

We will gladly give our aid to effect an equal division of rations over the year and to space commodities to seasonal needs.

Subdivision 2: The foregoing commodity items are intended to include all goods whether originating in America or elsewhere and the Board assumes that the Danish Government will consult with the United States as to the sources from which Denmark from time to time shall obtain these supplies. If this be done it will make it much more certain that the commodities will be obtained in full by Denmark as the United States and its associates will use their efforts to this end.

We propose placing cargoes passing through American jurisdiction or carried in vessels using American fuel in the same category as cargoes originating in the United States. Approved cargoes of foreign derivation will therefore have the same status and will be treated precisely as though they were of domestic origin.

Subdivision 3: The wording of this paragraph suggests the possibility of a misunderstanding respecting the limitation of Denmark's export of manufactured articles. Our proposal intended such manufactured articles to apply not alone to articles manufactured from merchandise of American origin but to all articles manufactured in Denmark. Prepared fish and meat or dairy products are not to be regarded as included in this term but are treated separately hereafter.

In order to meet the suggestion of the Danish Government to eliminate the limitation of \$2,000 in value per month of such manufactured articles, we propose as a substitute that such export shall not exceed in value the export of such manufactured articles from Denmark during the past year, and we assent to the guarantee system licensed [*of licenses*] by the Grosserer Societet and the Industriraad upon the Danish Government's assurance that these two institutions will fulfill their obligations in this regard. Effective guarantees are however to be given by Denmark that no metals except such as are employed in passive finishing processes nor any articles whatever capable of employment in military operations shall be exported; and it is of course understood that no articles imported from the countries associated with the United States in the war shall be re-exported directly or indirectly to the central powers and that no dispensations whatever from this general prohibition shall be granted.

We appreciate the Danish Government's acceptance of our condition that lubricants, oils, kerosene or gasoline received from the United States shall not be employed in factories or in manufacturing plants of any kind (excepting dairies) operating to produce commodities of any kind for exportation to Germany.

An appropriate clause in the final agreement will provide that no commodity which the United States or its associates may furnish to Denmark shall be exported to the central powers or shall be used in the production of any other commodities to be exported to the central powers, with the exceptions expressly provided for; and further that in case Denmark shall export to any neutral country contiguous to the central powers or either of them any commodity which Denmark agrees not to export to the central powers, that no such commodity so exported shall be re-exported directly or indirectly to the central powers.

It is further understood that no dispensation whatever will be granted when a general prohibition of export is provided for.

In case an agreement shall be reached, this Board will exercise its full power to grant export licenses for the commodities covered as well as for bunker coal and ships' stores to facilitate transportation to Denmark. This Board cannot absolutely guarantee to Denmark the supply or the licensing for export of the foregoing commodities as some are necessarily subject to the uncertainties of future harvests and others to future conditions of production and transportation which cannot be foreseen; nor can the requirements of the United States and its associates be in all respects accurately estimated.

Group 2: The Danish Government's counter proposal with respect to this group convinces us that a basic and very serious misunderstanding exists respecting the situation of the United States in these negotiations. Prior to our entrance into the war, at a tremendous cost in human life and treasure to the nations now associated with us, a flow of supplies of the kind included in this group was kept up from Denmark to the German army and civil population. We are now in the struggle and the people of the United States must not be expected to deny themselves and their associates in order that Germany may continue to be so supplied by Denmark. In all of our negotiations with you we have only sought fair limits upon your trade with our enemy as a consideration for the large supplies you are asking from and through us.

Subdivision 1: We will agree to your limitation of exports to the central empires of 38 per centum as a maximum of your exportable surplus of butter and 18 per centum as a maximum of your exportable surplus of bacon provided these percentages are understood to apply monthly and to the exportable surplus available after your domestic needs and your exports to Sweden and Norway have been first deducted from each month's total. We accept your guarantee that exports to the central powers shall not exceed 800 tons per week. We understand that the remainder of your exportable surplus will be exported monthly to Great Britain.

Subdivision 2: Concessions were heretofore made at the request of the Danish Government permitting the employment of kerosene, gasoline and lubricants imported from the United States in Danish dairies but not in Danish fisheries whose catch is to be exported to the central powers. Germany must furnish the fuel supply for that portion of the Danish fishing fleet which is engaged in securing the fish exported to the central powers. We note with satisfaction that you will limit this export to 25,000 tons per annum in terms

of fresh fish at the rate of about 2,100 tons per month. But we cannot consent to any deficit in one month being made good in the following months.

Subdivision 3: We cannot consent to your proposed increase in the export of cattle to Germany to 8,000 per week. This export must be limited to 6,000 per week and we cannot agree to your reserving the right of being four weeks ahead in this export.

Subdivision 4: Denmark's former proposal for a maximum export limitation of 30,000 horses per annum to central powers was accepted by us and we cannot consent to the proposed reservation that during the two months of January and February an extra quantity of 15,000 may be exported.

It is understood that the foregoing provisions for the export of butter, bacon, cattle and horses embraces all agricultural products to be exported by Denmark to central powers.

No dispensation will be given by the Danish Government for any export to the central powers of lard, cheese, milk, tallow, fats, fish oil, whale oil or any other oils or fats, except bacon and butter.

All Danish fishermen and Danish fishing boats must land their catch in Denmark. They must not transfer it at sea and must not deliver to Norway, Sweden or the Central Powers. The exports of fish agreed upon to the central empires must occur via Denmark. Denmark also agrees that she will not transfer to other flags any Danish fishing vessels.

Denmark agrees to furnish to the United States monthly statistics of its exportations to the central powers.

Subdivision 5: We cannot consent to your suggestion that you divide the exportable surplus of hides between the allies, Sweden and Germany. We are willing to meet the requirements of Denmark for heavy hides and tanning materials in exchange for Denmark's entire export of its surplus of hides after legitimate requirements of Norway and Sweden have been filled by Denmark, upon the understanding that Norway and Sweden shall not re-export or export to central powers Danish hides or hides of Norwegian or Swedish origin released by imports of Danish hides.

In view of the shortage in tonnage and the prevailing high price for Chili saltpetre, we beg to suggest that Denmark should be able to substitute calcium nitrate from Norway without greatly increasing her costs and with a great saving in transportation. This, however, must not operate to reduce the exportation of Norwegian nitrate and nitric acid to the Allies.

Group 3. The United States has through conditions not of its own imposing become the commodity trustee for a large part of the civilized world and is burdened with the unpleasant task of distributing as best it can an inadequate supply to many distressed nations of which yours is but one. In this distribution it must be governed by the needs, not the desires of those with whom it has to deal and recognition of and sympathy with the difficulties surrounding its thankless work does not seem too much to ask. In the matter of ships every available ton of all nations must be utilized both to increase the size of the too small loaf and to speed its distribution when cut up.

These results will be impossible of accomplishment without the employment of a substantial portion of the tonnage of all the nations in the danger zones, but in so far as is compatible with actual needs the United States will endeavor to conserve Danish tonnage by its employment in safe zones.

It is believed that 450,000 tons deadweight for Denmark's tonnage requirements is over-estimated, as Captain Cold's statements made here were that Danish-American trade requires 200,000 tons and that Danish-British trade requires 150,000 tons. The new Danish-British coal agreement provides for the carriage of 50,000 tons of coal per month, which we consider should be covered on the basis of a month's round trip, so we add 50,000 tons of tonnage, making the total requirements for Denmark's needs 400,000. The total Danish steam and motor tonnage amounts to 865,000 tons deadweight. This leaves, after deducting the 200,000 tons chartered to Great Britain, a balance to be chartered to the United States of 265,000 tons.

Delivery of tonnage under proposed agreement shall begin not later than January 15, and all vessels under this arrangement shall be delivered for service under charter by United States Government for the period of the war not later than February 15.

The Danish owners will agree to make no new charters from the time this agreement is consummated.

It is understood that the 265,000 tons are to be chartered to the United States Shipping Board for the period of the war. Of this quantity one-third is to be used in trades outside of Europe and the Atlantic islands, one-third for the Belgian relief and one-third in the war zone. It is agreed that if the Belgian Relief Commission's needs shall be less than one-third of the tonnage chartered that the Shipping Board shall have the privilege of using such tonnage as is not needed, one-half in trades outside of Europe and the Atlantic islands and one-half in the war zone.

Subdivision 3: We agree to your proposal that this tonnage originally chartered to the United States by Denmark will be treated as definitely settling the tonnage arrangement, no claims to be made for replacement of tonnage lost by war or marine risks.

Subdivision 4: We agree to the basis of Baltime form charter with such changes as to offhire and other clauses as are in conformity with the New York Productime [*Produce Exchange time*] form suggested in our proposal of November 27.

Subdivision 5: We agree that the time charter on vessels employed in the Belgian Relief and war zone service shall be at the rate of about \$10.75 and the rate on those employed in safe trade shall be about \$8.50, and we will indemnify Danish owners for losses caused by war risks on the basis of \$140.00 per ton deadweight.

We are glad to be able also to meet the Danish request that both stipulated rate for charter hire and loss of vessel be expressed in American dollars.

There are 53,000 tons of sailing vessels which we request be diverted into safe trade on this side.

Subdivision 6: All Danish ships are to conform to instructions in regard to route, time of sailing et cetera which may be given by competent allied authorities.

Subdivision 7: We are as desirous as Denmark that the most effective use of tonnage shall be arranged and will agree to avoid inspection harbors as soon as the development of a practical system will permit this to be done.

Subdivision 8: We agree that none of Danish tonnage chartered to the United States shall be used for Swedish ore trade.

Subdivision 9: As to the duration of the agreement, this Board feels that it should be operative for one year from the date of the agreement without cancellation privileges.

Denmark to agree in principle to provide through the extension of credit for the settlement of trade balances adverse to the United States and its associates.

We remain with assurances of our highest esteem [etc.] Vance C. McCormick, *Chairman*.

POLK

314

*The Acting Secretary of State to the Consul at Barcelona (Hurst)*²

[Telegram]

WASHINGTON, *January 19, 1918.*

War Trade Board states that in consideration of bunker and ship's stores licenses, which have been granted to various steamers of Compañía Transatlántica and Pinillos Line, and as an aid to avoid possible future delay, both lines have agreed to adopt all such safeguards as will protect U. S. Government, and in particular have agreed to following with respect to every vessel under their control. First, to our searching vessels at any U. S. ports or possessions in any way we desire. Second, permit our sending two representatives on voyages whenever desired, giving them first class fare and accommodation equivalent furnished masters and officers. The masters keeping such representatives thoroughly informed always regarding all matters respecting destination, intended loading and discharging of all cargo, bunker fuel, ship's stores, vessel's equipment or supplies of any kind. Third, to carry no cargo excepting as approved by Bureau of Exports, War Trade Board, who will send you separate instructions. Fourth, masters upon arrival each port, whether from States or foreign, will deliver to you complete manifest all cargo intending load or discharge your port, copies all agreements with this Government, and won't load or discharge any cargo, bunker fuel, ship's stores, vessel's equipment or supplies of any kind, until authorized by you, and will allow you to take any reasonable steps satisfy yourself all agreements

² File No. 600.119/488a; For. Rel., 1918, supp. 1, p. 1730.

The same, except last sentence, to consuls in other ports served by the steamship lines mentioned in the telegram; see last paragraph for instruction to repeat to the consuls at Valencia, Malaga, and Cadiz.

with this Government are fulfilled, and will allow you supervise all such loading and discharging. Further instructions will follow.

Repeat to Valencia, Malaga, Cadiz.

POLEK

315

General Rules Number 1, Governing Granting Licenses for Bunker Fuel, Port, Sea, and Ship's Stores and Supplies, Issued by the War Trade Board, January 19, 1918³

No vessel shall be allowed to clear from any port of the United States, or any United States possession, without having secured a license or licenses from the War Trade Board, through its bureau of transportation, covering all the bunker fuel aboard the vessel at the time of sailing (including coal, coke, oil, kerosene, and gasoline) and port sea, and ship's stores and supplies. Stores and supplies are, for convenience hereafter, included with bunker fuel under the general designation of "bunkers." Before the loading of any "bunkers" on any vessel at any port of the United States or its possessions shall be permitted, the license for "bunkers" must be obtained. All applications for licenses for "bunkers" must be made upon Application Form B-1, or such other form as may hereafter be adopted by this board. Applications for such licenses shall be approved only in accordance with the following and such other rules as may from time to time be adopted:

I. No application for "bunkers" by a sailing vessel for a voyage into the submarine war zone shall be approved. Sailing vessels equipped with auxiliary motive power shall, in the application of these rules, be classified as sailing vessels. A motor ship having no sailing power whatsoever shall be deemed to be in the same class as a steamship.

II. No application for "bunkers" by any vessel which has disobeyed any order of the United States Navy or of the United States Shipping Board, hereinafter called "Shipping Board," shall be approved.

III. No application for "bunkers" by any vessel of American registry not requisitioned by the "Shipping Board" shall be approved, except for a voyage and in a trade approved by the War Trade Board, and, if under charter, unless the charterer and the terms and conditions of the charter are approved by the War Trade Board.

³ *The Official Bulletin*, Washington, Jan. 21, 1918 (vol. 2, no. 213), p. 9.

IV. No application for "bunkers" by any neutral vessel⁴ shall be approved unless the person or persons managing, owning, chartering, or controlling such vessels shall have reported to and filed, in duplicate, with the War Trade Board, the name of all vessels and the masters, and any changes that may from time to time have occurred respecting said vessels and masters, managed, owned, chartered, or controlled by him or them.

V. No application for "bunkers" by any neutral ship⁴ shall be approved unless the person or persons owning, managing, chartering, or controlling such vessel shall enter into an agreement in a form to be approved by the War Trade Board, agreeing to comply with and be bound by each and all of the following regulations. Failure to comply with any of these regulations in the case of any one vessel may involve the refusal of "bunkers" to all of the vessels of the particular person, firm, or corporation managing, owning, chartering, or controlling the vessel in question.

(a) No vessel shall be chartered to a subject (including a person, firm, or corporation) of Germany or its possessions, or of any power allied with Germany, or to any person, firm or corporation who or which shall not be acceptable to the War Trade Board.

(b) No vessel shall trade with, or be bound to, any port in Germany or its possessions, or to any country allied with Germany, nor shall a vessel aid any vessel employed by or for Germany or any country allied with Germany.

(c) No vessel shall, without the consent of the State Department, carry any subject of Germany or its possessions, or of any country allied with Germany.

(d) No vessel shall carry any cargo which comes from or through or is destined to Germany or its possessions, or to any country allied with Germany.

(e) Every vessel which proceeds from or to the United States, to or from Norway, Sweden, Denmark (including Iceland and the Faroe Islands), Holland, Spain, or to or from any neutral port in the Mediterranean Sea, shall call for examination as may be directed by the War Trade Board.

(f) No vessel shall carry from a port outside the United States to any European port cargo which has not been previously approved by the War Trade Board or the Interallied Chartering Executive.

(g) No vessel shall carry any cargo from Norway, Sweden, Denmark (including Iceland and the Faroe Islands), Holland, Spain,

⁴ By an announcement of Feb. 5, 1918, pars. IV and V were amended through insertion of the words: "or by any vessel of American registry not requisitioned by the United States Shipping Board." (*The Official Bulletin*, Washington, Feb. 5, 1918, vol. 2, no. 226, p. 3.)

or Switzerland to any ports unless such cargo is accompanied by a certificate of nonenemy origin.

(*h*) No vessel shall carry any goods which are consigned to "order" (goods may, however, be consigned to the order of a named person, firm, or corporation when such person, firm, or corporation is the actual consignee). This provision shall not apply to goods shipped from a port of the United States or its possessions to countries other than Norway, Sweden, Denmark (including Iceland and the Faroe Islands), Holland, Spain, and Switzerland.

(*i*) No vessel shall carry any coal or mineral oil (including naphtha and gasoline) unless the consignee is approved by the War Trade Board.

(*j*) If a vessel is fitted with wireless telegraphy, the sending apparatus shall be sealed in such manner that no message can be sent without the knowledge of the master. The master shall be responsible for seeing, first, that no message to the enemy is sent by wireless telegraphy; second, that no reports are made of vessels sighted or of any weather conditions experienced; third, that no wireless messages of any kind are sent within 200 miles of England, France, Portugal, or Italy, except emergency messages relating to vessels or persons in distress.

(*k*) The owner or charterer shall, upon request to do so by the War Trade Board, dispense with the services of the master, officers, or any members of the crew.

(*l*) No vessel shall proceed on any voyage or be chartered on trip or time charter without the previous consent of the War Trade Board or the interallied chartering executive.

(*m*) No vessel shall carry any cargo which is consigned to or shipped by any person, firm, or corporation with whom citizens of the United States are prohibited by law from trading.

(*n*) No vessel shall carry to or from any European port any cargo which is consigned to or shipped by any person, firm, or corporation with whom citizens of any of the allied countries are prohibited by law from trading.

(*o*) No vessel shall be bought or sold without the previous approval of the United States Shipping Board, War Trade Board, or of the interallied chartering executive.

(*p*) No vessel shall be laid up in port without the approval of the War Trade Board of the interallied chartering executive.

(*q*) Every vessel clearing from a port of the United States shall observe all orders and requirements of the committee on ship protection of the emergency fleet corporation, of the Navy Department, of the Department of Commerce, and of the Bureau of War Risk Insurance of the Treasury Department.

(*r*) All "bunkers" received by any vessel shall be used solely for the purposes of the vessel, and no portion of the bunkers shall be landed in any port or transferred to any other vessel.

(*s*) A report in duplicate shall be furnished to the War Trade Board each month, showing in detail the movement of all vessels subject to these regulations.

316

The Acting Secretary of State to the Ambassador in Great Britain
(Page)⁵

[Telegram]

WASHINGTON, January 23, 1918—2 p.m.

6325. For Sheldon. [from War Trade Board]:

Number 28. Your Number 31. In the light of information available to us and aside from our desire to maintain a consistent policy toward Holland and Scandinavia throughout the negotiations, we are convinced that the surest and most effective way to expedite negotiations and bring about agreements with border neutrals is the continued maintenance of complete embargo, and we feel that these considerations outweigh any effect from capture of Scandinavian and Dutch markets by Germany.

Nevertheless, in view of your closer proximity to the situs of negotiations, we are disposed to entrust this matter to you; and if you and Minister of Blockade, after giving consideration to our views, feel it advisable to modify embargo by permitting export of non-essentials, we will be guided by your judgment and you are authorized to proceed accordingly.

Since formulating the above reply, we have received your Numbers 37 and 43. In view of same we are brought to conclusion that attempt of War Trade Board to maintain strict embargo against Scandinavia and Holland has been unsuccessful, and this is an additional reason for leaving the matter entirely to the judgment of yourself and Minister of Blockade.

POLK

317

The Netherland Minister (Van Rappard) to the Counselor for the
*Department of State (Polk)*⁶

No. 648

WASHINGTON, January 25, 1918.

DEAR MR. POLK: Referring to our conversation of to-day I have the honor, according to a cablegram received from my Government, to confirm the provisional agreement made through the intermediary

⁵ File No. 600.119/492a; For. Rel., 1918, supp. 1, p. 950.

⁶ File No. 656.119/193; For. Rel., 1918, supp. 1, p. 1392.

of the Netherland representatives in London and representatives of the United States War Trade Board, whereby all vessels lying in American ports with exception of the steamers *Zeelandia*, *Celebes*, *Ternate*, *Gorontalo*, *Adonis* and *Samarinda* are to be chartered under agreed charter terms to the United States for one round trip maximum duration of which is ninety days, outside of Europe and Atlantic Islands. Of this amount up to one hundred and fifty thousand tons is to be employed at the discretion of the United States, partly in the service of the Belgian Relief, partly for Switzerland on safe-conduct to Cette, France. Vessels which have gone on very short trips and arrived back before definite arrangement has been concluded are to be permitted by the Netherland Government to be rechartered for another short trip, the total duration of which trips not to exceed the maximum of ninety days. For each ship sent to Holland in the service of the Belgian Relief a corresponding vessel is to leave Holland for the United States. From other ships lying in American ports two ships will be allowed to leave for Holland, to be chosen from the three following: *Samarinda*, *Adonis*, and *Zeelandia*. Two ships of similar tonnage must be sent in exchange from Holland to the United States and be put at the disposal of the United States Government after arrival for one round trip in the same way as ships now lying in American ports with the exception of the six ships mentioned herein. If the steamer *Zeelandia* is chosen, the steamer *Frisia* must be sent in exchange. All cargo on the two boats released to Holland shall be consigned to the Netherland Oversea Trust Company. The Netherland Government must have the guarantee that the French Government will not requisition nor detain the ships in Cette. The shipowners will instruct their agents.

Believe me [etc.]

W. L. F. C. V. RAPPAARD

318

*The Ambassador in Great Britain (Page) to the Secretary of State*⁷

[Telegram]

LONDON, January 29, 1918—8 p. m.

[Received January 30—3.49 a. m.]

8430. War Trade Board [from Sheldon]:

No. 81. The following is the text of the *modus vivendi* signed today by Wallenberg, Count Wrangel, the Swedish Minister, Leverton-Harris and myself.

"1. The steamships *Jemtland* and *Osterland* and their cargoes shall be allowed to proceed to Sweden without hindrance and shall be

⁷ File No. 658.119/184; For. Rel., 1918, supp. 1, p. 1204.

granted necessary bunker facilities at Gibraltar and if desired license will be given for an approved Swedish vessel to load coal at a British port to an approved firm of coal importers at Las Palmas for bunkering either of these vessels.

2. 25,000 tons of phosphate rock shall be permitted to be exported immediately from United States to Sweden.

3. Permission shall be given to export from United States to Sweden 10,000 tons illuminating oil (exclusive of 5,500 tons to be exported from United States to Sweden in connection with the Christmas ships) and 5,000 tons fuel oil.

4. All reasonable facilities for bunkering and visitation outside blockade zone will be given for the shipping to Sweden from Buenos Aires of: (a) 15,000 tons of maize, (b) 3,000 tons of oil cake.

5. Permission shall be given for the export to Sweden of 25,000 bags of coffee from Great Britain (in addition to 22,000 bags now in the course of being released).

6. All dried fruit now detained in Denmark and Norway and cocoa detained in Denmark shall be released for importation into Sweden.

7. Sanction shall be granted for the export from Switzerland to Sweden of 4,000 cubic meters of cork bricks acquired by Sweden for refrigerating purposes but no articles refrigerated with the aid thereof shall be exported from Sweden without the consent of the Allies.

8. The Swedish Government guarantee that neither the above mentioned articles when imported nor any products thereof will be exported from Sweden and that no articles similar thereto will be exported from Sweden during three months from the arrival in Sweden of the articles imported under this arrangement.

9. It is understood that facilities for the importation and release of the above mentioned steamers and goods will be granted without delay subject to clause 8 of the provisional Swedish tonnage arrangement as stated below.

10. Should the Swedish Government desire to utilize Swedish vessels now lying in North or South American ports which are subject to clause 3 of the provisional tonnage arrangement below, to transport the commodities mentioned above, permission to do so will be granted provided an equivalent amount of Swedish tonnage now in Sweden shall be simultaneously dispatched from Sweden to United States ports. In the event of any such vessels having left Sweden failing to arrive the vessel released from the United States in anticipation of her arrival will be required to return after discharge. Vessels arriving in United States ports under this arrangement shall be subject to the provisions of clause 3 of the Provisional Swedish Tonnage Agreement below, unless required for the transport of cargo to Sweden under this agreement in which case permission will be granted for their return to Sweden on the terms stated in the first sentence of this clause.

11. The Swedish Government agree to the terms of the Provisional Swedish Tonnage Arrangement attached hereto which shall form part of this agreement.

12. The steamships *Jemtland* and *Osterland* after discharging in Sweden shall proceed to the United States to be chartered to the United States Shipping Board either on three months time-charter or round voyage excluding Europe and the Atlantic Islands.

Provisional Swedish Tonnage Arrangement.—Pending the termination of the present negotiations the Swedish Government will—

1st. Permit all Swedish shipowners to charter their ships to the Commission for Relief in Belgium without imposing any conditions.

2d. Grant licenses for all Swedish ships now idle in Allied European ports to be chartered for the period of three months for employment in the war zone. A list of these ships will be drawn up and agreed upon.

3d. Grant licenses for all Swedish ships idle in American, North and South, ports for a period of four months for employment in Allied interests outside European waters subject to the reservation contained in clause 10 above. A list of these ships will be drawn up and agreed upon.

[4. Permit all Swedish ships now engaged in trades of interest to the Allies to continue such trades. A list of these ships will be drawn up and agreed upon.] Besides ships on time-charter to the Allies, this list will include vessels now trading to or from Allied ports and vessels at present trading between Sweden and Allied countries in Europe as well as vessels at present chartered to the Commission for Relief in Belgium.

5. As regards Swedish ships now lying idle in Swedish ports the Swedish Government will grant licenses for such vessels to resume trading voyage by voyage pending the conclusion of a general agreement and will not obstruct direct negotiations between the Allies and Swedish shipowners for this purpose, provided that: (a) In each separate case the Swedish Government are satisfied that the vessel is not actually required for the service of Sweden. (b) In each separate case before a license is granted a formal assurance shall be given on behalf of the Allied Governments and the United States Government that every facility including a sufficient supply of bunker coals, [examination] at a port outside the danger zone, etc., will be allowed to enable the vessel concerned to return to a Swedish port in ballast if desired on the completion of the voyage for which it has been chartered. No conditions whatsoever will be exacted in regard to the future employment or movements of such vessels. No cargo of any description will be loaded on such vessels without previous approval of the Allied Governments concerned.

6. The rates for Swedish vessels time-chartered for trading in the danger zone under this agreement are as follows: Up to 500 tons, 58s. per ton dead weight per month; [500 to 1,000 tons, 54s. per ton dead weight per month,] 1,000 to 2,300 tons, 49s. per ton dead weight per month; 2,300 to 4,000 tons, 46s. 6d. per ton dead weight per month; 4,000 to 6,000 tons, 43s. 6d. per ton dead weight per month; over 6,000 tons, 41s. 6d. per ton dead weight per month. Charters on the usual Inter-Allied Chartering Executive terms. Charterers will be responsible for war risk on the following values: steamers under 10 years old, £50 per ton dead weight; steamers 10 to 30 years old, £40 per ton dead weight; steamers over 30 years old, £35 per ton dead weight. Recognizing that there may be exchange difficulties during the period of the provisional arrangement, if an owner wishes to effect some further insurance the charterers will be prepared to insure for the three months such further amount at the rate of 4 per cent per month provided the amount so insured shall in no case exceed 25 per cent of the value of the ship as defined above.

7. Charterers shall have the liberty to place one or more representatives on board any ship chartered under this agreement for the purpose of safeguarding their interest and assisting the master in accordance with the directions of the competent authority.

8. The minimum quantity of Swedish tonnage to be chartered for Allied service in war zone under this provisional arrangement is 100,000 tons dead weight, of which 80,000 tons is to be delivered immediately, and 20,000 tons within six weeks from date of agreement. The charters for the whole 100,000 tons are to be signed before any of the proposed concessions are made to Sweden.

9. One-half of all the charters under this agreement will be effected with the United States Shipping Board and one-half with firms nominated by His Majesty's Government.

January 29th, 1918 ”.

PAGE

319

*The Secretary of State to the Ambassador in Great Britain (Page) **

[Telegram]

WASHINGTON, January 30, 1918—2 p.m.

6387. For Sheldon Number 49. War Trade Board is now working on the formulation of a comprehensive plan for the control and regulation of exports to northern neutrals. This of course involves fixing the constitution and powers of Inter-Allied Blockade Committee. The Board's views will shortly be transmitted to you in mean time any further suggestions you may have to make will be welcomed. MacFadden, Board's representative to France, is sailing for England *en route*. Board considers that exports to Switzerland should be handled through its representative in Paris and by an organization in France which it now has under consideration.

LANSING

320

*The Secretary of State to Diplomatic and Consular Officers **

[Circular telegram]

WASHINGTON, January 30, 1918—6 p. m.

Advise consular officers at seaports your jurisdiction, that every vessel leaving United States ports on or after February 1, 1918, will carry copy of shipper's Export Declaration, manifest of cargo to be discharged at each port, bunker form No. 7 and Bunker Form No. 2 which master must deliver to American Consul on arrival at port and place consul in possession of all facts relating to cargo, bunkers, ship's stores and voyage, and can proceed to load or discharge only

* File No. 600.119/500a; For. Rel., 1918, supp. 1, p. 952.

* File No. 600.119/493; For. Rel., 1918, supp. 1, p. 953.

after receiving authority from Consul. Documents delivered by master should be returned to him by consular officer upon clearance. Consular officers will observe and report for Bureau of Exports, War Trade Board, all deliveries of cargo not in accordance with shipper's Export Declaration, and will report by cable for Bureau of Transportation, War Trade Board, any failure by master or owner to fulfill terms of bunker agreement. Full instructions by mail follow.

[LANSING]

321

*The Secretary of State to the Ambassador in Spain (Willard)*¹⁰

[Telegram]

WASHINGTON, February 2, 1918—noon.

862. Referring further to Embassy's 1028, January 29, 5 p. m. We strongly feel that in view of our adherence to the policy of including in all our negotiations for rationing of the northern neutral countries their chartering to the United States a part of their total shipping tonnage, that it would be an error of judgment to go forward with the Spanish negotiations without including tonnage negotiations of a similar character in these provisional arrangements. The total tonnage of Spain is 750,000 gross or about 1,000,000 tons deadweight.

We propose, after deducting tonnage required for Spain's own national existence estimated to be 300,000 tons that the balance of her shipping [shall] be chartered to the United States; one third of this tonnage under charter to run to Europe and the Atlantic islands, one third to be used for Swiss Government needs under safe conduct, and one third to be used outside of Europe and the Atlantic islands, the charter rates to be the same as those expressed in the Danish-American proposals which are 35 shillings for trades outside Europe and the Atlantic islands and for vessels running to Europe the rates to be as follows:

Up to 500 tons deadweight	58 shillings
Up to 1000 tons deadweight	54 shillings
Up to 2300 tons deadweight	49 shillings
Up to 4000 tons deadweight	46 shillings 6 pence
Up to 6000 tons deadweight	43 shillings 6 pence
Over 6000 tons deadweight	41 shillings 6 pence.

We are strong in the belief that a definite requirement of these negotiations should be the chartering of the tonnage above mentioned to the two allied nations and unless this is possible prefer to see the

¹⁰ File No. 652.119/541b; For. Rel., 1918, supp. 1, p. 1663.

basis of the permanent agreement postponed somewhat until Spain feels more definitely the need of coming into an agreement with us. Cable your views.

LANSING

322

*The Secretary of State to the Ambassador in Great Britain (Page)*¹¹

No. 5722

WASHINGTON, *February 13, 1918.*

SIR: The Department has received your telegram No. 7459 of October 17, 1917, and your despatch No. 6762 of August 13, 1917, with which you transmitted a copy of a note dated August 10, 1917, from the British Foreign Office, together with copies of *British Treaty Series*, Numbers 2 and 4 of 1914; No. 5 of 1915 and No. 6 of 1917, enclosed therewith, concerning the Convention of November 9, 1914 and the subsequent extensions thereof, concluded between Great Britain and France and acceded to by Italy and Russia, to regulate captures made by the Naval forces of the respective countries in the present war, and inquiring whether the Government of the United States is disposed to accede thereto.

The Department has carefully considered the enclosures transmitted with your despatch and desires you to inform the British Foreign Office that the Government of the United States in view of the present character of the war, deems it advisable to defer consideration of the question of the accession of the United States to these conventions and agreements.

I am [etc.]

ROBERT LANSING

323

*The Secretary of State to the Ambassador in Great Britain (Page)*¹²

[Telegram]

WASHINGTON, *February 14, 1918—5 p. m.*

6571. For Sheldon [from War Trade Board]:

Number 99 Your number 109. British Embassy has been taking up with us direct matter of eliminating call at Halifax; also Captain Mackin of British Admiralty in charge at Halifax has been here in conference with our naval representatives. Agreement has been reached satisfactory to British Embassy and Captain Mackin which provides for elimination of call at Halifax by vessels proceeding from United States ports and search at United States ports by United States Officials assisted and advised by British Admiralty

¹¹ File No. 763.72112/6419; For. Rel., 1918, supp. 1, p. 924.

¹² File No. 103.96/254; For. Rel., 1918, supp. 1, p. 957.

officers who will be brought here from Halifax.¹³ British Embassy and Captain Mackin have cabled Foreign Office and Admiralty respectively asking their approval of foregoing arrangements. Upon securing such approval we understand call at Halifax will at once be eliminated.¹⁴

LANSING

324

*Proclamation Regarding Exports in Time of War, February 14, 1918*¹⁵

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Congress has enacted, and the President has on the fifteenth day of June, 1917, approved a law which contains the following provisions:

"Whenever during the present war the President shall find that the public safety shall so require, and shall make proclamation thereof, it shall be unlawful to export from or ship from or take out of the United States to any country named in such proclamation any article or articles mentioned in such proclamation, except at such time or times, and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: Provided, however, that no preference shall be given to the ports of one State over those of another."

And whereas the President has heretofore by proclamations dated July 9, 1917, August 27, 1917, September 7, 1917, and November 28, 1917, declared certain exports in time of war unlawful, and the President now finds that the public safety requires that such proclamations be amended and supplemented in respect to the articles and countries hereinafter mentioned;

NOW, THEREFORE, I, WOODROW WILSON, PRESIDENT OF THE UNITED STATES OF AMERICA, DO HEREBY PROCLAIM to all whom it may concern, that the public safety requires that the following articles,

¹³ Telegram to the Ambassador in Great Britain, June 14, No. 8270 (File No. 656.119/484), for Sheldon, No. 679, states:

"... present arrangement with the British Government ... provides for a search in United States ports of only those vessels which load their [entire] cargoes in the United States ..."

¹⁴ The War Trade Board was informed on Mar. 6 (File No. 103.96/321):

"Your 99. Foreign Office state they have telegraphed Embassy, Washington, concurring in scheme arranged between yourselves and their Embassy under which call at Halifax, with a saving as to special directions in any particular case, is to be eliminated for vessels examined at New York."

¹⁵ Proclamation No. 1428; For. Rel., 1918, supp. 1, p. 958.

namely: all kinds of arms, guns, ammunition and explosives, machines for their manufacture or repair, component parts thereof, materials or ingredients used in their manufacture, and all articles necessary or convenient for their use; all contrivances for or means of transportation on land or in the water or air, machines used in their manufacture or repair, component parts thereof, materials or ingredients used in their manufacture, and all instruments, articles and animals necessary or convenient for their use; all means of communication, tools, implements, instruments, equipment, maps, pictures, papers and other articles, machines and documents necessary or convenient for carrying on hostile operations; all kinds of fuel, food, foodstuffs, feed, forage and clothing, and all articles and materials used in their manufacture; all chemicals, drugs, dyestuffs and tanning materials; cotton, wool, silk, flax, hemp, jute, sisal and other fibres and manufactures thereof; all earths, clay, glass, sand, stone and their products; animals of every kind, their products and derivatives; hides, skins and manufactures thereof; all non-edible animal and vegetable products; all machinery, tools, dies, plates, and apparatus and materials necessary or convenient for their manufacture; medical, surgical, laboratory and sanitary supplies and equipment; all metals, minerals, mineral oils, ores, and all derivatives and manufactures thereof; paper pulp, books and all printed matter and materials necessary or convenient for their manufacture; rubber, gums, rosins, tars and waxes, their products, derivatives and substitutes, and all articles containing them; wood and wood manufactures; coffee, cocoa, tea and spices; wines, spirits, mineral waters and beverages; and all other articles of any kind whatsoever shall not, on and after the sixteenth day of February in the year One Thousand Nine Hundred and Eighteen, be exported from, or shipped from, or taken out of the United States or its territorial possessions to Abyssinia, Afghanistan, Albania, Argentina, Austria-Hungary, Belgium, her colonies, possessions and protectorates, Bolivia, Brazil, Bulgaria, China, Chile, Colombia, Costa Rica, Cuba, Denmark, her colonies, possessions and protectorates, Dominican Republic, Ecuador, Egypt, France, her colonies, possessions and protectorates, Germany, her colonies, possessions and protectorates, Great Britain, her colonies, possessions and protectorates, Greece, Guatemala, Haiti, Honduras, Italy, her colonies, possessions and protectorates, Japan, Liechtenstein, Liberia, Luxembourg, Mexico, Monaco, Montenegro, Morocco, Nepal, The Netherlands, her colonies, possessions and protectorates, Nicaragua, Norway, Oman, Panama, Paraguay, Persia, Peru, Portugal, her colonies, possessions and protectorates, Roumania, Russia, Salvador, San Marino, Serbia, Siam, Spain, her colonies, possessions and protectorates, Sweden, Switzerland, Turkey, Uruguay, or Vene-

zuela, except under license granted in accordance with regulations or orders and subject to such limitations and exceptions as have heretofore been, or shall hereafter be prescribed in pursuance of the powers conferred by said Act of June 15, 1917. The said proclamations of July 9, 1917, August 27, 1917, September 7, 1917, and November 28, 1917, and paragraph II of the executive order of October 12, 1917, are hereby confirmed and continued and all rules and regulations heretofore made in connection therewith or in pursuance thereof are likewise hereby confirmed and continued and made applicable to this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the District of Columbia, this 14th day of February in the year of our Lord One Thousand Nine Hundred and [SEAL] Eighteen and of the Independence of the United States of America the One Hundred and Forty-Second.

WOODROW WILSON

By the President,
ROBERT LANSING
Secretary of State.

325

*Proclamation Regarding Imports in Time of War, February 14, 1918*¹⁶

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Congress has enacted, and the President has on the Sixth day of October, 1917, approved, a law which contains the following provisions:

“Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: Provided, however, that no preference shall be given to the ports of one State over those of another.”

And whereas the President has heretofore by proclamation dated November 28, 1917, declared certain imports in time of war unlawful, and the President now finds that the public safety requires that such

¹⁶ Proclamation No. 1429; For. Rel., 1918, supp. 1, p. 960.

proclamation be amended and supplemented in respect to the articles and countries hereinafter mentioned;

NOW, THEREFORE, I, WOODROW WILSON, PRESIDENT OF THE UNITED STATES OF AMERICA, DO HEREBY PROCLAIM to all whom it may concern that the public safety requires that the following articles, namely: all kinds of arms, guns, ammunition and explosives, machines for their manufacture or repair, component parts thereof, materials or ingredients used in their manufacture, and all articles necessary or convenient for their use; all contrivances for or means of transportation on land or in the water or air, machines used in their manufacture or repair, component parts thereof, materials or ingredients used in their manufacture, and all instruments, articles and animals necessary or convenient for their use; all means of communication, tools, implements, instruments, equipment, maps, pictures, papers and other articles, machines and documents necessary or convenient for carrying on hostile operations; all kinds of fuel, food, foodstuffs, feed, forage and clothing, and all articles and materials used in their manufacture; all chemicals, drugs, dyestuffs and tanning materials; cotton, wool, silk, flax, hemp, jute, sisal and other fibres and manufactures thereof; all earths, clay, glass, sand, stone, and their products; animals of every kind, their products and derivatives; hides, skins and manufactures thereof; all non-edible animal and vegetable products; all machinery, tools, dies, plates, and apparatus, and materials necessary or convenient for their manufacture; medical, surgical, laboratory and sanitary supplies and equipment; all metals, minerals, mineral oils, ores, and all derivatives and manufactures thereof; paper pulp, books and all printed matter, and materials necessary and convenient for their manufacture; rubber, gums, rosins, tars and waxes, their products, derivatives and substitutes, and all articles containing them; wood and wood manufactures; coffee, cocoa, tea and spices; wines, spirits, mineral waters and beverages; and all other articles of any kind whatsoever, shall not, on and after the sixteenth day of February, in the year One Thousand Nine Hundred and Eighteen, be imported into the United States or its territorial possessions from Abyssinia, Afghanistan, Albania, Argentina, Austria-Hungary, Belgium, her colonies, possessions and protectorates, Bolivia, Brazil, Bulgaria, China, Chile, Colombia, Costa Rica, Cuba, Denmark, her colonies, possessions and protectorates, Dominican Republic, Ecuador, Egypt, France, her colonies, possessions and protectorates, Germany, her colonies, possessions and protectorates, Great Britain, her colonies, possessions and protectorates, Greece, Guatemala, Haiti, Honduras, Italy, her colonies, possessions and protectorates, Japan, Liechtenstein, Liberia, Luxembourg, Mexico, Monaco, Montenegro, Morocco, Nepal, The Netherlands, her colonies, possessions and protectorates, Nicaragua, Nor-

way, Oman, Panama, Paraguay, Persia, Peru, Portugal, her colonies, possessions and protectorates, Roumania, Russia, Salvador, San Marino, Serbia, Siam, Spain, her colonies, possessions and protectorates, Sweden, Switzerland, Turkey, Uruguay, or Venezuela, except under license granted in accordance with regulations or orders and subject to such limitations and exceptions as have heretofore been, or shall hereafter be prescribed in pursuance of the powers conferred by said Act of October 6, 1917. The said proclamation of November 28, 1917, and paragraph III of the executive order of October 12, 1917, are hereby confirmed and continued and all rules and regulations heretofore made in connection therewith or in pursuance thereof are likewise hereby confirmed and continued and made applicable to this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the District of Columbia, this 14th day of February in the year of our Lord one Thousand Nine Hundred and [SEAL] Eighteen and of the Independence of the United States of America the One Hundred and Forty-Second.

WOODROW WILSON

By the President,
ROBERT LANSING,
Secretary of State.

326

*Statement by the War Trade Board, February 15, 1918*¹⁷

The President has to-day issued two proclamations¹⁸ which will become effective to-morrow. The purpose and effect of these proclamations are to subject to control by license the entire foreign commerce of the United States, and from and after February 16, 1918, no commodities may be exported from this country or imported into this country except under license.

The President has heretofore issued several proclamations controlling certain exports under the provisions of Title VII of the espionage act, and one proclamation controlling the importation of certain commodities under the provisions of section 11 of the trading-with-the-enemy-act. The military situation and the tonnage situation have made increasingly apparent the necessity of instituting a complete and thorough-going control of all our exports and imports.

The transportation of our armies to France and the maintenance of a continued flow of the supplies and munitions needed to maintain

¹⁷ *The Official Bulletin*, Washington, Feb. 15, 1918 (vol. 2, no. 235), p. 1.

¹⁸ Proclamations dated Feb. 14, 1918.

them in fighting trim require the use of every ton of shipping which can possibly be devoted to these purposes. This demand must be met, and if it becomes necessary to curtail our exports or imports, these are measures which are forced upon us by the critical tonnage situation and the necessity of availing ourselves of every possible means of maintaining our armies in France.

The limitation of exports is necessary also to conserve the products of this country for the use of our own people and the peoples of the nations associated with us in the war; we must dispose of this surplus in such a way as to aid, as far as possible, those countries to the south which have always depended upon us; we must also dispose of our surplus in such a way that Germany and her allies will derive no benefit therefrom; and we must secure for ourselves in return shipping and supplies urgently needed.

The promulgation of these two proclamations does not mean an embargo on exports or a prohibition of imports, but places in the hands of the President the power to regulate, which he will exercise through the War Trade Board and the Treasury Department. This power will be exercised with the single purpose of winning the war, and every effort will be made to avoid unnecessary interference with our foreign trade and to impose upon our exporters and importers no restrictions except those involved in the accomplishment of definite and necessary objects.

As heretofore, licenses for the export or import of coin, bullion, currency, evidences of debt or of ownership of property, and transfers of credit, will be issued by the Treasury Department; licenses for all other exports and imports, including merchandise, bunkers, ships' supplies, etc., will be issued by the War Trade Board.

327

*The Secretary of State to the Ambassador in Great Britain (Page)*¹⁹

[Telegram]

WASHINGTON, February 18, 1918—7 p. m.

6617. For Sheldon [from War Trade Board]:

No. 113. Understanding now reached with British Embassy subject to formal approval of Foreign Office²⁰ for complete elimination navicerts on following basis:

(1) United States will recognize control machinery now existing in neutral countries reserving right from time to time to propose changes in personnel, form of organization and method of control;

¹⁹ File No. 600.119/544a; For. Rel., 1918, supp. 1, p. 963.

²⁰ It was reported to the War Trade Board Mar. 1 (File No. 600.119/561): "The Foreign Office agree to the general plan outlined in your number 113."

(2) Trade representatives of the United States and Great Britain in northern neutral countries will constitute themselves informal local joint committees to supplement and supervise the workings of domestic control organizations.

(3) The first step in any import transaction will be the buyer securing a permit from his local control organization, if any, and if not, filing an application to import with the local joint committee. The local import permit, if granted, or application to import, will be given number and reported with comment by local joint committee to London committee hereafter referred to.

(4) Seller will then apply for export permit giving import permit number. The exporting country will first pass for itself on question of conservation and consignor. If these tests successfully passed, application will then be referred to an inter-allied committee at London.

(5) The inter-allied committee will pass on the following points:

(a) Can importation be permitted in view of rationing agreements.

(b) Are consignee and ultimate purchaser satisfactory.

(c) The committee will also apply principles as to conservation of tonnage if and when such principles are agreed to by the governments concerned. The committee will not, however, itself formulate and apply rules on this subject.

(6) For the present the inter-allied committee to be utilized will be the existing Contraband Committee; whether a new inter-allied blockade committee should be created will be subsequently considered.

(7) The War Trade Board London representative will cable recommendation of committee. It is expectation of War Trade Board that it will uniformly follow London committee recommendation. It reserves, however, the right to overrule London decision, but in no case would this reserved right be exercised without previous exchange of views with British. It is understood that Great Britain will adopt similar practice and United States representative on committee be given opportunity to scrutinize British applications to export and that no licenses will be issued over his objection without previous exchange of views with United States.

(8) No attempt will be made to apportion rations among several belligerents. Buyer will be entirely free to select his own market.

(9) Where the neutral buyer desires to purchase in another neutral country his import permit or import application may be submitted through local committee to London committee with name of consignor and London Committee in such cases may pass on transaction in its entirety and its decision will be final.

(10) The method of handling cables, abbreviations, etc. will be as set out in Department's Number 6210, January 10th, 4 P. M.,²¹ with following additions and changes:

(a) We propose to add to our regular serial number a second number prefixed by a letter designating country of destination. This second group of numbers to be run serially according to country of destination. Applications for shipments to Norway

²¹ Document 309.

will be given our regular serial number to which we will add A1, A2, A3, etc. Swedish applications will be numbered as regularly plus B1, B2, etc. Denmark letter C, Holland letter D, Iceland and Faero Islands letter E, Greece letter G. Shipments to any of the above countries under \$100 except from Greece will be lettered Z and shipments of this character for Greece letter U.

(b) Sixth item in cable will be "consignee"; seventh "import certificate number"; eighth "consignee's address"; ninth "purchaser if different from consignee"; tenth "purchaser's address if a purchaser different from consignee".

(11) We propose to license freely but with discretion shipments of under \$100 in value to all destinations without reference to London. Weekly reports of Z and U licenses will be sent by mail to War Trade Board London and Athens respectively.

(12) It is proposed to inaugurate the foregoing methods immediately in case of Iceland, and also in respect of Holland and Sweden as soon as export of non-essentials begins.

You will please repeat the foregoing to United States Legations at The Hague, Christiania, Stockholm and Copenhagen.

It is suggested we permit shipments to northern neutrals only on vessels carrying the flag of the country of destination. Please cable your views on this. British Embassy suggests licenses for northern neutrals should be valid only for sixty days in accordance with British practice. We seriously object to this as railroads will require licenses before beginning shipment to seaboard and owing to our unusual railroad conditions and difficulties to issue sixty day licenses would require ultimately the reissuing or renewal of probably 75 per cent. of licenses issued. Our licenses are normally issued now for ninety days except in cases of some few special commodities and even in view of rationing difficulties which we can appreciate we think our licenses for northern neutrals should be in general for ninety days. We propose to send you weekly in pouch two copies of manifests of all vessels for northern neutrals.

LANSING

328

*The Director of the Bureau of War Trade Intelligence of the War Trade Board (Fuller) to Major Grimprel of the French High Commission*²²

[WASHINGTON,] February 19, 1918.

DEAR MAJOR GRIMPREL: I write to confirm the understanding reached by you, Mr. Broderick of the British Embassy, and myself

²² File No. 763.72112/8594; For. Rel., 1918, supp. 1, p. 1016.

The same, *mutatis mutandis*, to the Assistant Commercial Adviser of the British Embassy (Broderick). Letter of transmittal from the War Trade Board to the Department of State not printed.

concerning cooperation in making changes in the *Liste Noire Générale*, the British Statutory List, and the United States Enemy Trading List. That understanding covered the following points:

(1) No changes will be made in the Lists without a preliminary reference by the Government proposing the changes to the other two Governments. The notifications will be given by the Bureau of War Trade Intelligence to the French High Commission and the British Embassy in Washington and by either of the latter to the Bureau of War Trade Intelligence in Washington.

(2) Changes mutually agreed upon will be published by the three Governments as nearly as practicable on the same dates.

(3) Because of the greater familiarity of the British Government with war conditions in northern European countries, proposals for changes in the Lists for Europe, excepting Spain and Switzerland, will be discussed in London. The decisions will be guided by the policy of the British Government in so far as they are compatible with the laws and regulations of France and the United States.

(4) Proposals for changes in the Lists for Spain and Morocco will be discussed in Paris by representatives of the three Governments. The decisions will be guided by policies recommended by the French Government in so far as they are compatible with the laws and regulations of Great Britain and of the United States.

(5) The United States will not publish an Enemy Trading List for Switzerland.

(6) Proposals for changes in the Lists for Latin America will be discussed in Washington. The decisions will be guided by the policies of the United States in so far as they are compatible with French and British laws and regulations, respectively.

(7) In preparing an Enemy Trading List for European countries, excepting Spain and Switzerland, the United States Bureau of War Trade Intelligence has conferred, through its representative, with representatives of the British Government in London and with the British Embassy in Washington.

(8) Similarly we have conferred with you in preparing our Enemy Trading List for Spain and Morocco and have convinced ourselves that every name on the *Liste Noire Générale* for these countries should be placed upon the Enemy Trading List under our laws and regulations. Therefore, our revised List, which is now nearly ready for the printer, will correspond exactly with the *Liste Noire Générale* as far as Spain and Morocco are concerned.

(9) The *Liste Noire Générale*, the British Statutory List, and the Enemy Trading List for Latin America now are under process of amendment in pursuance of the principles of our understanding.

(10) Certain details of procedure are to be defined in later communications between us.

If I have stated our understanding correctly I should appreciate a written acknowledgement.

Yours very sincerely,

[FULLER]

329

*War Trade Board Announcement Regarding Exports to Holland and Sweden*²³

The War Trade Board announces that it is now prepared to receive and consider applications for the export to Holland and Sweden, for domestic consumption, of certain commodities hereinafter specified which are not subject to the general rationing agreements now under discussion with these nations.^{23a} Holland and Sweden have already concluded temporary agreements of a limited character with the United States, and it is in view of this fact that this step, in which Great Britain and France join, has been taken. The articles for which applications for export licenses will be considered are as follows:

Wines.

Films in exchange foot per foot of films of similar manufacture.

Phonographic records.

Pianos.

Made-up articles of clothing.

Straw hats.

Felt hats, trimmed ready for wear.

Machinery, including spare or replacement parts.

Amidol and substitutes.

Bromine.

Hydrobromic acid.

Sodium bromide.

Opium.

Alkaloids.

Ammonium compounds.

Ferric compounds.

Camomile.

Digitalis.

Nitrate of silver.

Synthetic drugs, viz: Salvarsan, Kharsevan, arsenobillon, novocaine, eucaine, salicylic acid, acetyl-salicylic acid.

China.

Glassware.

Earthenware.

Salt cake.

Flower seeds, except seeds which are producers of oil.

Shrubs.

Musical instruments, except instruments composed entirely or mainly of metal.

²³ *The Official Bulletin*, Washington, Feb. 20, 1918 (vol. 2, no. 239), p. 3.

^{23a} The War Trade Board stated on May 4, 1918: "We have approved the extension of the relaxation of the embargo on non-essentials to Denmark. . . . Norway of course is not considered in this connection in view of the recent conclusion of the agreement with her." (File No. 657.119/422; For. Rel., 1918, supp. 1, p. 984.)

Pictures.

Marble and alabaster for statuary purposes.

Surgical and medical appliances other than appliances containing rubber.

Precious stones, real and imitation diamonds other than industrial diamonds.

Feathers of high value.

Flowers, artificial.

Furs of high value.

Expensive buttons of bone or horn.

Toys.

Carpets, oriental, of high value.

Gauge glasses.

Teeth, artificial, except such as contain platinum or other rare metals.

Laces, hand made, such as maltese lace.

Coral.

Tooth brushes.

The foregoing list is a common one agreed to by Great Britain, France, and the United States. The inclusion of an article therein does not necessarily mean that exportation thereof will be freely permitted by all or any of these nations. Principles of conservation will be applied as heretofore.

In the case of proposed shipments to Holland, the prospective importer abroad must first obtain a Netherlands Overseas Trust import permit. When this is received he will advise the seller in the United States, who will thereupon apply for an export license from the Bureau of Exports, War Trade Board, 1435 K Street, Washington, D. C., using application Form X, and giving on his application the number of the N. O. T. import permit. No applications which do not give the N. O. T. permit number can be considered.

In the case of proposed shipments to Sweden, the prospective importer abroad must first make known to the United States Legation at Stockholm his intention to import, and advise the seller that he has done so. After he has done this, the American exporter should then apply for an export license from the Bureau of Exports, War Trade Board, 1435 K Street, Washington, D. C., using application Form X.

On and after February 20, 1918, British letters of assurance to Sweden and Holland will no longer be issued by the British Government for shipments covered by licenses dated February 20, 1918, or later.

In considering applications for export licenses preference will be given to shipments ordered prior to July 9, 1917, and in making applications shippers should give any particulars of this character which might assist the board.

As all applications for shipments to Holland and Sweden must be passed on by the Washington office of the War Trade Board, shippers are requested to mail their applications direct to Washington and not to a branch office.

330

*The Secretary of State to the War Trade Board*²⁴

WASHINGTON, February 25, 1918.

GENTLEMEN: As the result of a conference between Mr. Stabler and Mr. Lay of the Latin American Division of the State Department and Mr. Paul Fuller of the War Trade Intelligence, the following policy was recommended in regard to the Enemy Trading Laws in Brazil, Cuba and Panama, the three Latin American countries at war with the German Government:

1. No new names to be put on list without consultation with the Diplomatic Representatives of the three countries.

2. If any of the three Governments ask officially that a name be taken off the list and are willing to take all responsibility for future action of listed persons and will give sufficient guarantees to that effect, name to be taken off list, on understanding that this action is contingent upon the person's future behavior, and if Governments of Great Britain and France concur.

The Department has felt for some time that some distinction should be made by the War Trade Board in matters concerning the Enemy Trading List, between those Latin American Countries which had declared war against Germany and those which had only broken off diplomatic relations or still remained neutral.

As a matter of policy this is evident for the reason that the countries in the first category consider, with a certain amount of justice, that more favorable treatment should be accorded to them than to the others, on account of their attitude.

There is without doubt a feeling in all of the countries which have aligned themselves with the United States that discrimination in their favor, which they expected as a result of their action, is not forthcoming and they are asking themselves if "the game is worth the candle". If this Government is not willing to deal with the questions in the broadest and most liberal spirit, the United States will find itself in the position of having made enemies of those countries which have come out before the world as its friends, more bitter enemies even than those countries which have not shown a desire to give it support.

²⁴ File No. 763.72112A/685; For. Rel., supp. 1, p. 1020.

For these reasons the Department of State recommends the adoption in Brazil, Cuba and Panama [of] the policy outlined above.²⁵ I have [etc.]

For the Secretary of State:

ALVEY A. ADEE

Second Assistant Secretary

331

*The Secretary of State to the Minister in Cuba (Gonzales)*²⁶

[Telegram]

WASHINGTON, *March 1, 1918—6 p. m.*

Your February 22 Noon.

All mail in transit between Spain and Mexico, and Spain and other countries of Latin America which is not subject to the censorship of our Allies, is taken, held and examined by the Censorship of the United States, when vessels carrying mail touch at any of our ports.

It is most urgently desired by this Government that all mail terminal and transit, touching at Cuban ports, other than mail originating in or destined for the United States which has not been censored by our allies, and which will not encounter the censorship of our allies, be subjected to a most searching censorship.

Report by cable result of your representations.

LANSING

332

*The Secretary of State to the Chargé in Denmark (Grant-Smith)*²⁷

[Telegram]

WASHINGTON, *March 1, 1918—7 p. m.*

761. For your information from War Trade Board.

["Informed Danish Minister today their proposal February 14th [13] did not interest us. That we only cared to take up one matter with him, namely, tonnage, which is the only thing they have to compensate us for what they require from us. That as to tonnage we would not consider any proposal now that did not give us for the duration of the war the tonnage which their proposal offers us on charter for only six months. Also that 80,000 tons of this must go

²⁵ Mr. Paul Fuller replied on Mar. 6, 1918 in part as follows:

"I acknowledge your letter of February 25, confirming the understanding heretofore arrived at between myself and Messrs. Stabler and Lay, relative to policy in regard to the Enemy Trading List insofar as Brazil, Cuba and Panama are concerned." (File No. 763.72112A/685.)

²⁶ File No. 837.711/12; For. Rel., supp. 1, p. 1731.

²⁷ File No. 659.119/218a; For. Rel., 1918, supp. 1, p. 1319.

into the war zone. That until Denmark saw fit to change its proposal respecting tonnage to meet these requirements we did not think anything would be gained by discussing balance of proposal. He is cabling his government to this effect."

LANSING

333

*The Acting Secretary of State to the Ambassador in Great Britain (Page)*²⁸

[Telegram]

WASHINGTON, March 6, 1918—7 p. m.

6781. For Sheldon [from War Trade Board]

No. 169. Embassy's No. 8865, your No. 216, March 1, 10 p. m.,²⁹ we agree that local joint committees should include representatives of French and Italian governments. The British Embassy is in accord with this plan. If Foreign Office likewise agrees, please advise us and we will instruct Legations at Holland, Sweden, Norway and Denmark accordingly.

It was not our thought to disturb the existing status of Contraband Committee with Frothingham as War Trade Board representative on it. Our feeling is that you as principal representative of Board in London could not afford to sit on this Contraband Committee which as we see it, must in a sense be a subsidiary committee on which we should have a representative, but who should be under your direction.

In reference to Inter-Allied Export Control Committee which you propose please advise in greater detail as to precise functions which in your opinion this committee would have. Your earlier statement concerning this committee seems to us to indicate that it might duplicate somewhat work of Contraband Committee.

POLK

334

*The Ambassador in Spain (Willard) to the Spanish Minister of State (Alhucemas)*³⁰

MADRID, March 7, 1918.

EXCELLENCY: With a view to expanding the trade relations between the United States and Spain, and cementing close and friendly

²⁸ File No. 600.119/561; For. Rel., 1918, supp. 1, p. 969.

²⁹ Reading in part as follows (For. Rel., 1918, supp. 1, p. 968):

"I should recommend that an inter-Allied blockade committee be set up as soon as possible, but would suggest that it be called, say, inter-Allied export control committee as a more palatable name to the northern neutrals."

³⁰ File No. 652.119/771; For. Rel., 1918, supp. 1, p. 1671.

An identic note of the same date was addressed by the Minister of State to the Ambassador.

intercourse between the two nations, the Government of the United States of America and the Government of His Catholic Majesty hereby grant and accept the following mutual concessions, subject to the observance of the agreement made today between the Governments of France and Spain:

First.

The Spanish Government agrees to permit the exportation without restriction as to destination or quantities:

- 1-Pyrites,
- 2-Lead, zinc, copper, and minerals of every kind,
- 3-Manufactured wool.

Second.

The Spanish Government agrees to permit likewise the exportation of the products enumerated below, to the extent permitted by national requirements and by its international obligations, and with due consideration of the production:

- 1-Rice, raisins, onions, olive oil,
- 2-Manufactures of cotton, hemp, and jute,
- 3-Leather hides, raw and manufactured,
- 4-Rolling stock, and all conveyances used in connection with transportation.

Third.

The Spanish Government further agrees to issue permits for exportation, when applied for in the immediate future, for the following articles:

- 1-300,000 blankets (in addition to the 200,000 already purchased)
- 2- 4,000 tons onions,
- 3- 2,000 tons raisins,
- 4- 2,000 tons rice,
- 5- 20,000 saddle blankets,
- 6-240,000 yards canvas,
- 7- 20,000 pounds Castile soap,
- 8- 20,000 gallons olive oil,
- 9- 20,000 bridle leather backs,
- 10- 20,000 Collar leather backs,
- 11-100,000 pounds harness leather.

Fourth.

Reciprocally the United States Government on its part agrees to permit the exportation from America to Spain of products required by the latter, but only to the extent that it can spare them from its own needs, as well as those of its Allies, and in like manner only the quantities required to satisfy national needs of Spain, avoiding, in so far as they relate to cotton, the accumulation of unnecessary reserves.

In virtue of this agreement, the exportation of cotton will be allowed to the extent of 35,000 bales per month, commencing March

first, and 4,000 tons of petroleum and its derivatives per month to commence May first. This shall not be construed to include the 8,000 tons of petroleum already agreed to be sent to Spain.

Fifth.

The Government of the United States further agrees to permit the exportation of articles, the departure of which may be authorized under the conditions noted in Article Fourth, as specially enumerated below :

Locomotives and railway material,
Copper in plates, tubes and wire,
Iron and steel in bars, tubes and wire,
Chemical products including anilin oils,
Machines and electric material in general,
Material for telegraph and telephone,
Sulphates of ammoniac,
Aluminium,
Tobacco.

Sixth.

In return for the immediate export authorization specified in Article Third, the United States on its part accords to Spain the authorization to export immediately from the United States :

Orders of Spanish railways already placed in the United States,
2,000 barrels of parafin,
12,000 barrels of oleonaphtha and lubricants,
22,000 barrels of residue of petroleum.

The petroleum products thus ordered shall be considered as forming part of the total of petroleum and its products referred to in Article Fourth.

Seventh.

The terms of this understanding being of a reciprocal nature, compliance therewith by each party shall be contingent upon the compliance therewith by the other.

Eighth.

It is mutually agreed that the export taxes applicable to the above-mentioned articles shall not exceed in amount those agreed upon with France.

Ninth.

Each nation will provide the transportation by water of their respective purchases, and at their own risk and peril.

Tenth.

When through the operation of Article Fourth, the United States shall have satisfied its requirements as specified in Article Third, the embargo against the exportation of United States products to Spain, and Spanish products to the United States or to France for the needs of the United States in said country, will not further be enforced for the remainder of the period covered by this agreement, so long as all the provisions therein contained are strictly complied with, since the essence of this understanding is to mutually

promote the commercial relations of both countries, provide for their necessities, and lighten in every way possible the burdens and embarrassments from which both nations are suffering through the general disturbances to the world's commerce. This clause shall not, however, be construed to relieve exporters from the necessity of securing permits and conforming to the rules and regulations respecting them, prescribed by the United States Government and Spain, or the right to limit the exportation of any article which the needs of the respective countries or their international obligations towards neutral nations or the nations of the Entente may compel.

Eleventh.

As to transportation by rail, the two countries will use their best efforts respectively to provide the best facilities possible by indicating to each other the points most suitable for loading and unloading.

Twelfth.

Re-exportation of the articles and products covered by this agreement shall not be permitted to any other country than the one designated at the time of the granting of the export permit, without the consent of the United States or Spain, as may be necessary in each case.

Thirteenth.

After the signature of the present agreement, negotiations will be begun with a view to concluding an agreement concerning transportation by sea between the United States and Spain, the object of this agreement being to serve the mutual interests of both countries by assuring to them the reciprocal benefits which will result through making the best possible use of Spanish and American ships touching respectively at ports of the two nations. Pending the establishment of this last mentioned agreement between the two countries, each shall endeavor to afford to the vessels of the other touching at their respective ports, such coaling facilities as they may find possible, the duration of such provisional arrangement not to exceed two months.

Fourteenth.

The general purpose of this agreement is to remove as far as possible all restrictions on the mutual trade relations of the signatories now made necessary between them by the embarrassments surrounding the entire world's commerce.

Fifteenth.

When requested, export licenses for products to be manufactured will be issued, and will be usable for the export of such manufactured product when complete.

Sixteenth.

This agreement is to remain in force until and including December 31, 1918.³¹

I avail myself [etc.]

JOSEPH E. WILLARD

³¹ This agreement was supplemented by a financial agreement of Aug. 28, 1918 (File No. 852.51/61; For. Rel., 1918, supp. 1, p. 1707).

335

*The Acting Secretary of State to the Minister in Cuba (Gonzales)*³²

[Telegram]

WASHINGTON, *March 13, 1918—7 p. m.*

Department's March 9, 6 p. m.

It is desired that when authority for censorship of Spanish mails under direct American control and supervision be granted it be so comprehensive as to permit at the same time a thorough search of the entire ship, passengers, officers and crew in discretion of American official. This form of search has been carried out for nearly two years by British Government *all* neutral vessels being so searched by them. It is being done by the United States. The great importance of having this work thoroughly and efficiently done under United States control and supervision can not be overestimated. Use your best efforts in arranging for immediate creation by Cuba of such a system.

POLK

336

*The Ambassador in Great Britain (Page) to the Secretary of State*³³

[Telegram]

LONDON, *March 20, 1918—11 p. m.*

[Received 7.36 p. m.]

9147. War Trade Board [from Sheldon]:

"Number 314. Your number 169. Representatives of Great Britain, France, Italy, and myself met at Foreign Office with a view of facilitating exchange of views on blockade matters.³⁴ Decided to meet regularly once a week and to constitute ourselves into an allied blockade committee under the chairmanship of Leverton-Harris. Such committee would have no powers except as being the means of deciding blockade matters on which they had received specific instructions from their governments. The Contraband Committee would in no way be disturbed but should it be in difficulties could seek advice from the Allied Blockade Committee which could give decisions or the members could request instructions from their respective government. So many matters are arising which it is not the province of

³² File No. 837.711/18; For. Rel., 1918, supp. 1, p. 1732.

The Minister replied on Mar. 16, 1918, in part as follows:

"Your March 13, 7 p.m. We have never asked for and it would be poor policy to stress 'direct American control and supervision'. The distrust implied would be perilous to success even if request granted in consequence. But we have the censorship and Captain Goelet the American officer is guiding the work and exercising all the control he desires." (File No. 837.711/19; For. Rel., 1918, supp. 1, p. 1733.)

³³ File No. 600.119/595; For. Rel., 1918, supp. 1, p. 974.

³⁴ The first meeting, as recorded in the committee's minutes, was on Mar. 15.

the Contraband Committee or the War Trade statistical department to determine that the need of this new committee is keenly felt. This committee is taking up in detail the subject matter of your number (175?). I would call your attention in this connection to Morris telegram 1620, March 5, 5 P. M. stating: 'the local Joint Committee will report constantly to allied ministers who will take such steps as they deem proper with the Swedish Government to carry out its recommendations'. While undoubtedly the local joint committees should have considerable latitude in developing the most efficacious method of handling importations. I think in principle the Foreign Office agrees with me that they should not have the power to take any decisions outside the scope determined upon by the Allied Blockade Committee sitting in London. In other words the Allied Blockade Committee would occupy the same position regarding the northern neutrals that the Inter Allied Committee in Paris occupies regarding Switzerland. Please consider foregoing and send me your approval or comments."

PAGE

337

*Proclamation Regarding the Possession and Utilization of Vessels
of the Netherlands, March 20, 1918*³⁵

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, the law and practice of nations accords to a belligerent power the right in time of military exigency and for purposes essential to the prosecution of war, to take over and utilize neutral vessels lying within its jurisdiction:

AND WHEREAS the Act of Congress of June 15, 1917, entitled, "An Act making appropriations to supply urgent deficiencies in appropriations for the Military and Naval Establishments on account of war expenses for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes," confers upon the President power to take over the possession of any vessel within the jurisdiction of the United States for use or operation by the United States:

NOW THEREFORE I, WOODROW WILSON, President of the United States of America, in accordance with international law and practice, and by virtue of the Act of Congress aforesaid, and as Commander-in-Chief of the Army and Navy of the United States, do hereby find and proclaim that the imperative military needs of the United States require the immediate utilization of vessels of Netherlands registry,

³⁵ Proclamation No. 1436; For. Rel., 1918, supp. 1, p. 1416.

now lying within the territorial waters of the United States; and I do therefore authorize and empower the Secretary of the Navy to take over on behalf of the United States the possession of and to employ all such vessels of Netherlands registry as may be necessary for essential purposes connected with the prosecution of the war against the Imperial German Government. The vessels shall be manned, equipped and operated by the Navy Department and the United States Shipping Board, as may be deemed expedient; and the United States Shipping Board shall make to the owners thereof full compensation, in accordance with the principles of international law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE in the District of Columbia, this twentieth day of March, in the year of our Lord one thousand nine hundred and eight-
[SEAL] een, and of the Independence of the United States of America the one hundred and forty-second.

WOODROW WILSON

By the President:

ROBERT LANSING,
Secretary of State.

338

*Public Statement by the President Regarding the Taking Over of Netherland Ships by the United States*³⁶

For some months the United States and the entente allies have been conducting negotiations with the Dutch Government with the object of concluding a general commercial agreement.

A very clear statement of the character of these negotiations was made on March 12 to the Dutch Parliament by his excellency the minister of foreign affairs of Holland. As appears from the statement, the discussion proceeded upon the basis of two fundamental propositions, namely, that the United States and the allies should facilitate the importation into Holland of foodstuffs and other commodities required to maintain her economic life, and that Holland should restore her merchant marine to a normal condition of activity.

It was the task of the negotiators to develop a specific application of these propositions which would be acceptable to the Governments concerned.

³⁶ *The Official Bulletin*, Washington, Mar. 21, 1918 (vol. 2, no. 263), p. 1. For. Rel., 1918, supp. 1, p. 1417.

Early in January, 1918, the negotiators came to an understanding which was embodied in a tentative agreement, which was submitted to the Governments concerned in order that if acceptable it might be ratified, or if unacceptable a counterproposal might be made.

The negotiations becoming prolonged, the Dutch delegates proposed, in order that their ships might sooner be put into remunerative service, that Dutch tonnage lying idle in American waters should, with certain exceptions, be immediately chartered to the United States for periods not exceeding 90 days.

This proposal was accepted by the United States Government, and on January 25, 1918, the Dutch minister at Washington handed to the Secretary of State of the United States a note expressing the terms of the temporary chartering agreement and his Government's acceptance thereof. This agreement provided, among other things, that 150,000 tons of Dutch shipping should, at the discretion of the United States, be employed partly in the service of Belgian relief and partly for Switzerland on safe conduct to Certe, France, and that for each ship sent to Holland in the service of Belgian relief a corresponding vessel should leave Holland for the United States. Two Dutch ships in the United States ports with cargoes of foodstuffs were to proceed to Holland, similar tonnage being sent in exchange from Holland to the United States for charter as in the case of other Dutch ships lying in the United States ports.

The agreement was explicitly temporary in character and, being designed to meet an immediate situation, prompt performance was of the essence. The Dutch Government at once disclosed, however, that it was unwilling or unable to carry out this chartering agreement which it had itself proposed. The first desire of the United States was to secure at once shipping, as contemplated by the agreement, to transport to Switzerland foodstuffs much needed by the State. One difficulty after another was, however, raised to postpone the chartering of Dutch ships for Swiss relief, and, although the reason was never formally expressed, it was generally known that the Dutch shipowners feared lest their ships should be destroyed by German submarines, even though on an errand of mercy, and though not traversing any of the so-called "danger zones" proclaimed by the German Government. That this fear was not wholly unjustified has, unhappily, been shown by the recent act of the German Government in sinking the Spanish ship *Sardimero* outside the "danger zone" when carrying a cargo of grain for Switzerland, and after the submarine commander had ascertained this fact by an inspection of the ship's papers.

In respect of Belgian relief, the Dutch Government expressed its present inability to comply with the agreement on the ground that

the German Government had given Holland to understand that it would forcibly prevent the departure from Holland of the corresponding ships, which under the agreement were to leave coincidentally for the United States. The Dutch Government even felt itself unable to secure the two cargoes of foodstuffs, which under the agreement it was permitted to secure, since here again the German Government intervened and threatened to destroy the equivalent Dutch tonnage which under the agreement was to leave Holland for the United States.

Nearly two months have elapsed since the making of the temporary chartering agreement, and the proposed general agreement has lain even longer without reply on the part of Holland. Meanwhile, German threats have grown more violent, with a view to preventing any permanent agreement and of forcing Holland to violate any temporary agreement.

On March 7, through Great Britain, a final proposal, expiring on the 18th, was submitted to Holland. A reply has been received which, while in itself unacceptable, might under other conditions have served as a basis for further negotiations. But the events to which I have alluded had served to demonstrate conclusively that we have been attempting to negotiate where the essential basis for an agreement, namely, the meeting of free wills, is absent. Even were an agreement concluded, there is lacking that power of independent action which alone can assure performance. I say this not in criticism of the Dutch Government. I profoundly sympathize with the difficulty of her position under the menace of a military power which has in every way demonstrated its disdain of neutral rights. But, since coercion does in fact exist, no alternative is left to us but to accomplish, through the exercise of our indisputable rights as a sovereign, that which is so reasonable that in other circumstances we could be confident of accomplishing it by agreement.

Steps are accordingly being taken to put into our service Dutch shipping lying within our territorial jurisdiction. This action on our part and the similar action which is being taken by Governments associated with us leaves to Holland ample tonnage for her domestic and colonial needs. We have informed the Dutch Government that her colonial trade will be facilitated and that she may at once send ships from Holland to secure the bread cereals which her people require. These ships will be freely bunkered and will be immune from detention on our part. The liner *Nieuw Amsterdam*, which came within our jurisdiction under an agreement for her return, will, of course, be permitted at once to return to Holland. Not only so, but she will be authorized to carry back with her the two cargoes of

foodstuffs which Holland would have secured under the temporary chartering agreement had not Germany prevented. Ample compensation will be paid to the Dutch owners of the ships which will be put into our service, and suitable provision will be made to meet the possibility of ships being lost through enemy action.

It is our earnest desire to safeguard to the fullest extent the interests of Holland and of her nationals. By exercising in this crisis our admitted right to control all property within our territory, we do no wrong to Holland. The manner in which we proposed to exercise this right and our proposals made to Holland concurrently therewith can not, I believe, fail to evidence to Holland the sincerity of our friendship toward her.

WOODROW WILSON

339

*Public Statement by the War Trade Board, March 23, 1918*³⁷

[Extract]

Under the power conferred upon him by the trading-with-the-enemy act, the President, on February 14, 1918, issued a proclamation which required an import license for all articles from all countries. The chief purpose of this was to enable this Government to eliminate less essential imports to the end that tonnage might be conserved, and additional shipping be made available for the transportation of troops and supplies to Europe. Similar steps have been found necessary by the allies, and England particularly has found it necessary to impose most drastic import restrictions in order to most effectively devote her shipping to the successful prosecution of the war.

For many weeks past a corps of specialists have been giving the closest study as to the manner in which this import restriction would be exercised, so that the greatest saving could be accomplished with the least injury to our ordinary commercial activities. The question was still further complicated by the earnest desire of this Government to affect as little as possible the industry and commerce of the countries associated with us in the war, and to work as little hardship as possible to neutrals. The question involves close cooperation with the Shipping Board and consultation with the State Department, the Treasury Department, the Food Administration, and other branches of the Government, as well as the War Trade Board, within whose province falls the actual administration of the control.

³⁷ *The Official Bulletin*, Washington, Mar. 23, 1918 (vol. 2, no. 265), p. 1; *For. Rel.*, 1918, supp. 1, p. 975.

As a result of these deliberations, the War Trade Board, through its bureau of imports, publishes the first list of restricted imports.

Applications for license to import the articles appearing on the list will not be granted, except under the following circumstances:

- (1) When the articles mentioned are actually shipped from abroad prior to April 15, 1918.
- (2) When coming by rail from Mexico or Canada when the goods in question originated in those countries or in others from which such goods are being licensed for import.
- (3) When coming as a return cargo from European points and then only (a) when coming from a convenient port, (b) when loaded without delay, and (c) when the importation from Europe is not specifically prohibited in said list.

The following is the list of restricted imports, No. 1:
[Here follows the list.]

340

*The Secretary of State to the Ambassador in Great Britain (Page)*⁸⁸

[Telegram]

WASHINGTON, March 26, 1918—8 p. m.

7036. For Sheldon [from War Trade Board]:

Number 248. Embassy number 9147, March 20 11 p. m. Your number 314. The creation of Inter-Allied Blockade Committee with functions you indicate is approved. With reference to local joint committees, it is our view that their duties will be; 1- to arrange with local import organizations or with government so that joint committee will be promptly informed of all applications for import permits, 2- to advise such local import organizations as to action on applications in so far as such advice will be accepted, 3- to inform themselves to [so] that they can intelligently make recommendation to Contraband Committee in London as to whether export licenses should be granted to correspond with such import permits as may have been issued, 4- to supervise informally the workings of local import organizations so as to determine whether these organizations are conforming to such undertakings against re-export etc., as they may have given, 5- to study general trade conditions with a view to making recommendations as to methods by which the Blockade of Germany may be made more effective and our influence with the neutral increased.

In carrying out one, two and four, we believe the local committee should have freedom of action under the advice of the local legations of associated governments. Recommendations under point three

⁸⁸ File No. 600.119/595; For. Rel., 1918, supp. 1, p. 976.

will be made direct to or for the Contraband Committee London. Recommendations under point five will be made through respective legations to home foreign offices, which in turn would normally consult with Inter-Allied Blockade Committee London.

LANSING

341

The Secretary of State to Diplomatic and Consular Officers ³⁹

[Circular telegram]

WASHINGTON, March 29, 1918—6 p.m.

Instruct Consular officers at seaports, your jurisdiction, to substitute following for circular telegram of January 30th:

"Every vessel leaving United States ports on or after February 1st, 1918, will carry copies of shipper's export declaration, manifest of cargo to be discharged at each port, bunker forms numbers 7 and 2 which master must deliver American Consul on arrival at port and place in Consul's possession all facts relating to cargoes, bunker fuel, ship's stores and voyage. Receive aforesaid documents and return them to master before clearance and report to Department all deliveries of cargo which fail to accord with shipper's export declaration or fulfill terms of bunker agreement with reasons therefor, but avoid interposing objection to or exercising control or supervision over loading, discharging or distribution of cargoes as indicated in Bunker form No. 7 and be careful to avoid violations of local law."

LANSING

342

The Secretary of State to the Consul at Barcelona (Hurst) ⁴⁰

[Telegram]

WASHINGTON, March 30, 1918—7 p. m.

In carrying out Department's cables January 17th and 19th, *re* Compañía Transatlántica and Pinillos Line, take no steps toward opposing, controlling, supervising, or preventing loading, discharging or distribution of cargoes, and be careful to avoid violations local law. You may however take any reasonable and proper steps to satisfy yourself that the agreements between this line and the War Trade Board are fulfilled, reporting fully to the Department.

LANSING

³⁹ File No. 600.119/493a supp.; For. Rel., 1918, supp. 1, p. 977.

⁴⁰ File No. 600.119/488a; For. Rel., 1918, supp. 1, p. 1734.

The same, on the same date, to consuls in other ports served by the steamship lines mentioned in the telegram.

343

*The Ambassador in Great Britain (Page) to the Secretary of State*⁴¹

[Telegram]

LONDON, April 2, 1918—9 p.m.

[Received 9:27 p.m.]

9311. War Trade Board [from Sheldon]:

"Number 365. Following is text of a communication that was cabled by Foreign Office to the British Ministers at The Hague, Copenhagen, Stockholm and Christiania for distribution to American, French and Italian Ministers, in each city.

'The Allied Blockade Committee has been established here with representatives of the United States, France, Italy and Great Britain to supervise, subject to directions of their Governments, general questions connected with blockade. Contraband Committee, which now contains Allied representatives, continues its functions unaltered except that it will refer all large questions of principle to A. B. C.

Two meetings of latter have already been held and constitution and functions of local joint trade committees in neutral capitals were considered. Constitution, machinery and therefore committees will vary in the several capitals, the essential thing being that close co-operation between the four Allies on blockade matters should be insured.

While considerable latitude should be left to local committees the general principle is that their function should be advisory and not executive, except to the extent that executive functions may be delegated by the A. B. C. in specific cases. More specifically it will be the duty of the local committees:

- (1) To arrange with local import organizations of Governments so that local committees will be promptly informed of all applications for import and to consult with local organizations should occasion arise.
- (2) To receive and transmit to the contraband committee in London all guarantees with comments whenever desirable. Present system in Denmark should, however, be maintained.
- (3) To watch the working of local import organizations and to report whether these organizations are conforming with undertakings against reexport, et cetera.
- (4) To ascertain in case the agreements are signed that the goods which the Allies are entitled to receive are supplied in the quantities and at the times fixed.
- (5) To study general trade conditions with a view to making recommendations as to methods by which the blockade be rendered more effective.
- (6) To investigate and report on all statistical questions, such as rations or embargoes, and also all questions concerning consignees or local trade conditions which may be referred to them.

⁴¹ File No. 600.119/613; For. Rel., 1918, supp. 1, p. 978.

Reports and communications of the local committees other than guarantees for Contraband Committee should be made to the several Allied Ministers for transmission to Governments and copies sent to representatives on Allied Blockade Committee.

Above represents general outline of transfer of functions from British Legations to the local committees which will of course be effective with as little interference as possible with existing machinery. Their powers must, to some extent, depend upon agreements not yet completed. Please telegraph any comments or criticisms which your local committees may desire to make.'

I have cabled our Ministers in the four capitals mentioned. Please cable me any suggestions for alteration, but if you approve as it stands suggest you cable officially, notifying Ministers matter has your approval."⁴²

PAGE

344

*The Secretary of State to the War Trade Board Representative in Cuba (Morgan)*⁴³

[Telegram]

WASHINGTON, April 4, 1918—7 p.m.

Department's circular telegram of March 30th, 7 p.m. and your April 3, 5 p.m. While Department hopes that the Cuban government may be able under its laws and regulations to prevent the vessels of Compañía Transatlántica and Pinillos Steamship Lines continuing their voyages between Cuba and Mexico for reasons given in your April 3, 5 p.m. and Legations April 1, 12 p.m., the War Trade Board informs the Department that, "under agreement with Spain ratified March 7, 1918, the War Trade Board is bound for two months from that date to afford Spanish vessels touching United States ports such coaling facilities as the Board may find possible. While this agreement may be construed as applying only to United States ports, the War Trade Board considers it advisable that Mr. Morgan personally and officially should do nothing against the spirit of the agreement."

LANSING

⁴² The following reply to this cable was sent on Apr. 8, 1918:

"We approve of the statement of the functions of local trade committee in Northern European capitals as set out in Foreign Office communication which you quote. Our Ministers at these capitals are being notified of this approval."

⁴³ File No. 837.711/29a; For. Rel., 1918, supp. 1, p. 1736.

345

*The Secretary of State to the Ambassador in Great Britain (Page)*⁴⁴

[Telegram]

WASHINGTON, April 8, 1918—8 p. m.

7182. For Sheldon [from War Trade Board]:

308. Your Number 264. Embassy number 8940, March 7, 7 p. m. We have been in conference with British and French Embassies relative to purchase of one-third of Swedish iron ore proposed to be obtained by Allies under pending agreement. This government has now reached the decision which has been communicated to these Embassies and is substantially as follows:

We have serious doubt as to the advisability of Associated Governments purchasing the 2,450,000 tons of iron ore, since depriving Germany of this amount apparently would not affect her for several years in view of the surplus which she has undoubtedly acquired and in view of the fact that her ability to accumulate this surplus indicates that her current rate of consumption has not much exceeded the amount which she will continue to get under the proposed agreement. Thus any benefit to be derived by us depends, first on the prolongation of the war for several years, secondly on our ability to renew iron ore division on same or more favorable terms during these years. We greatly doubt ability to renew agreement covering this ore at a time when it would operate to inconvenience seriously Germany's operations. Holding as we do this view on the general proposition and since the United States would itself be unable to utilize more than a small portion, if any, of the proposed purchase, the United States is not willing itself to purchase one-third of the proposed allotment. We are, however, prepared to finance Great Britain and France to the extent of one-third of the entire purchase price, in the event that Great Britain and France should feel this purchase to be desirable.

Since expressing the foregoing decision we have received a cable from Morris stating that the Swedish Minister of Foreign Affairs had informed him in the strictest confidence that Germany had strongly protested against the restriction of her supply of Swedish iron ore. The Minister stated that he believed Germany had a two years supply of low phosphorus ore on hand but refused to accept the restriction as a matter of prestige.

In view of this information and of our opinion as to the little practical importance of the restrictive clause in the pending agreement, we desire to suggest for the serious consideration of yourself and the Foreign Office, the advisability of giving Sweden to understand that if she represented to us that her two principal assets for bargaining purposes were (1) ships and (2) iron ore and that she must reserve iron ore wherewith to bargain with the Central Powers, then we would acquiesce in the elimination of the restrictive clause

⁴⁴ File No. 658.119/241; For. Rel., 1918, supp. 1, p. 1216.

in the present agreement, provided this agreement were then promptly ratified. We suggest you obtain Morris' views on the foregoing suggestion.⁴⁵

LANSING

346

*The Acting Secretary of State to the Swiss Minister (Sulzer)*⁴⁶

WASHINGTON, April 26, 1918.

SIR: I have the honor to acknowledge the receipt of your note of April 24th⁴⁷ in which you enumerate the terms under which the Imperial German Government will grant safe-conduct to vessels engaged in the transportation of supplies to Switzerland.

⁴⁵ The following supplemental telegram was sent on Apr. 25 (For. Rel., 1918, supp. 1, p. 1223):

"British Embassy recently pointed out to us that our offer to finance Great Britain and France to extent of one-third of cost of purchase of Swedish iron ore would throw on England and France alone the burden of such loss as might ultimately result through necessity of disposing of ore at a price below that fixed in pending contract. We therefore assured the British Embassy orally of willingness of Government of the United States to bear also one-third of such ultimate loss. The foregoing is for your information."

⁴⁶ File No. 654.119/198; For. Rel., 1918, supp. 1, p. 1611.

⁴⁷ The Swiss Minister's note of Apr. 24, 1918 (For. Rel., 1918, supp. 1, p. 1610), follows:

"I have the honor to inform your Excellency that I am in receipt of a cablegram from my Government according to which the German Government has declared its willingness to grant safe conducts to the port of Certe for vessels under enemy flag, engaged in the transportation of supplies to Switzerland, under the following conditions.

These vessels shall, until further notice, carry wheat, rye, corn, barley, flour, oats, oil cakes and rice only. The sides of the steamers must bear the inscription "SCHWEIZ", painted as large as possible, on black ground and visible at a long distance. Moreover, the coat-of-arms of Switzerland must likewise be painted as large as possible on both sides of the stern of the vessels as an insignia of neutrality. These signs are to be illuminated at night. The vessels must at all times fly on their foremasts the Swiss flag, of as large a size as possible, and which would probably best answer the purpose if made of sheet-metal. They must travel outside of the blockade zone, must be unarmed, and show at night the lights prescribed by the international maritime laws, or otherwise prescribed. They shall not call at any port except Certe, and are to comply with all orders to stop and to be examined. Each vessel must carry a manifest written in German, containing an accurate list of the goods shipped, so as to correspond with the Bills of Lading.

It is required that this Legation deliver to the Captain of each vessel a certificate of safe conduct, showing that it has been issued on the basis of an agreement made between the Governments of Switzerland and Germany, and showing moreover the name of the vessel and of its master, its signal, home port, port of departure and port of destination, as well as a brief description concerning the nature of the cargo, stating that the cargo is intended exclusively for Switzerland and that it corresponds exactly with the ship's documents.

I should be obliged to your Excellency for advising me as early as possible whether the above mentioned conditions are acceptable to the Government of the United States."

In reply I have the honor to inform you that the terms for the granting of the safe-conduct are acceptable to this Government, provided the United States Government receives through you definite assurances that all submarine commanders have received the necessary instructions from the Imperial German Government guaranteeing safe-conduct to these vessels before such vessels sail for Cette. An exception, however, must be made in respect to the former Dutch vessels *Bellatrix*, *Alcor* and *Merak* which, according to a decision already reached, will proceed under proper convoy to an Atlantic port in France there to deliver their cargoes.

In spite of this decision, the Government of the United States will allow one of these vessels to proceed to Cette under the terms of safe-conduct described in your note, provided the assurances mentioned above are received by this Government before this vessel sails.

Accept [etc.]

FRANK L. POLK

347

*The Secretary of State to the Ambassador in Great Britain (Page)*⁴⁸

[Telegram]

WASHINGTON, April 26, 1918—8 p.m.

7464. For Sheldon [from War Trade Board].

Number 401. Your number 466. Embassy number 9653, April 22, 6 p.m. Our obligation freely to supply Spanish ships with bunkers continues only during the first two months of agreement and we therefore have bunker control as a lever to induce Spain to make an agreement with us which would put at least some portion of Spanish merchant marine into a service useful to us. Capt. Fisher further has pointed out that Great Britain's obligation to bunker is limited and that Great Britain can exert substantial pressure along this same line. The British Government through Capt. Fisher suggested that since both Governments had inducements to offer Spain the negotiations should be jointly conducted. This was agreeable to us and we therefore proposed in our 348 that British should nominate as joint negotiator with Chadbourne some one who has expert shipping knowledge. We can, of course, send shipping expert from this country to advise Chadbourne, but since British Government has expressed desire that negotiations be jointly conducted, it seemed to us more expeditious that their negotiator be a shipping expert and that he should proceed at once to join Chadbourne and with him initiate negotiations. The Spanish government have through their Embassy requested that negotiations be promptly opened.

LANSING

⁴⁸ File No. 652.119/765; For. Rel., 1918, supp. 1, p. 1677.

348

*The Consul General at London (Skinner) to the Secretary of State*⁴⁹

[Telegram]

LONDON, [undated.]

[Received April 29, 1918—7.40 p. m.]

Admiralty notice number 536 of [April 26,] 1918 states that in view of unrestricted warfare carried on by Germany at sea by means of mines and submarines not only against the Allied Powers, but also against neutral shipping, and fact that merchant ships are constantly sunk without regard to ultimate safety of their crews, following prohibited area will be established in the North Sea on May 15th, dangerous to all shipping and should be avoided. Area is enclosed by line joining following positions:

- (1) Latitude 59° 12½' N., longitude 4° 49' E.
- (2) Latitude 59° 20' N., longitude 3° 10' E.
- (3) Latitude 58° 25' N., longitude 50' W.
- (4) Latitude 59° 20' N., longitude 50' W.
- (5) Latitude 60° 21' N., longitude 3° 10' E.
- (6) Latitude 60° N., longitude 4° 56' E., thence along western limits of Norwegian territorial waters to position 1.

SKINNER

349

*Memorandum of Agreement between the War Trade Board of the United States and the Norwegian Government, Relating to Exports from the United States to Norway, April 30, 1918*⁵⁰

The War Trade Board, an administrative agency empowered by executive order of the President to license exports from the United States, and the Special Representative of the Norwegian Government, have jointly considered the commercial relations between the United States and Norway, during the continuance of the present war, for which period this agreement shall continue, subject to termination by either party at the expiration of one year from date and at any time thereafter by either party upon giving three months notice of intention to terminate the same.

With the knowledge of their respective governments, the War Trade Board and the Special Representative of the Norwegian Government have agreed as follows:

⁴⁹ File No. 841.801/132; For. Rel., 1918, supp. 1, p. 1763.

⁵⁰ File No. 657.119/484; For. Rel., 1918, supp. 1, p. 1170.

ARTICLE I

1. The powers of the War Trade Board are administrative and pertain wholly to the nation's domestic or internal affairs.

2. The said War Trade Board agrees that Norway shall receive at ports of origin her estimated needs of the articles enumerated in the several schedules annexed in so far as the same, first, are not required for consumption in the United States, and in so far as the exportation thereof will not so reduce available supplies as to prevent the rationing of the nations associated with the United States in the war; and, second, will not, directly or indirectly, be exported to any country or ally of any country with which the United States is at war.

3. In consideration of the stipulations hereinafter set forth, said War Trade Board agrees to license the export (and in so far as the United States is concerned, free of license charges or export tax), or facilitate the obtaining, as the case may be, of the estimated requirements of Norway enumerated in the Schedules A, B, C, D, E and F,^{50a} hereto annexed and made a part hereof. Norway's genuine requirements for home consumption of articles not mentioned in these schedules shall be met as far as possible.

4. If sufficient quantities to supply the estimated needs are not deemed available for exportation from the United States at the time required, export licenses shall be granted for as great a part thereof as is available, compatible with the rules and regulations set forth in this agreement. And said Board will grant licenses for bunker fuel and ships stores to vessels transporting the said commodities to Norway from the United States or other countries.

The War Trade Board has been assured by the Governments of the powers associated in the war with the United States and with which it is acting in full accord in these matters that vessels carrying supplies to Norway in compliance with the present agreement shall not in any way be hindered, held or seized on the part of the Allies, subject however to the exercise by the Allies of the right of visit and search. The Governments of the said powers associated with the United States will in every way facilitate the transportation to Norway of all such supplies.

The Norwegian vessels specially reserved for and when actually engaged in carrying supplies to Norway under the present agreement shall not be subject to bunker regulations or other restrictions and shall receive by license bunker fuel and ships stores necessary to carry such supplies to Norway.

^{50a} Schedule G of the draft agreement does not appear in the final agreement. The items thereunder have been incorporated in part under schedule D.

ARTICLE II

In consideration of the granting of such export and bunker and ship store licenses for the exportation from the United States and other countries to Norway of the articles enumerated in the annexed schedules, the Norwegian Government agrees to the following stipulations:

1. The commodities enumerated in the Schedules A, B, C, D, E and F, annexed, for which licenses may be granted, are based upon the total estimated import needs of Norway for each twelve months period during the continuance hereof, and, since these commodities are to be withdrawn from already restricted world supplies, it is expressly understood that all supplies Norway is enabled to import shall, as and when imported, be deducted from the commodities set forth in said schedules.

Owing to the fact that supplies in the United States are restricted, and as an inducement for Norway to obtain elsewhere a part of her requirements and thus save in the use of tonnage, it is understood that in reckoning imports pursuant to the provisions hereof, each ton of the commodities enumerated in the schedules annexed, obtained from Russia as constituted before the war, shall be counted as the equivalent of one-half ton obtained elsewhere.

The importation into Norway of the articles described in the said annexed schedules is for consumption in Norway and the quantities thereof which shall be licensed (notwithstanding the aggregate quantities set forth in the schedules annexed) shall at all times be determined by the actual internal requirements of Norway, with due regard to existing stocks and to the importation into Norway from countries where the license of the Board is not required of like articles, or articles capable of use as substitutes for those described in the annexed schedules.

No article imported into Norway under the provisions hereof shall be exported by Norway to other than "Allied" destination, nor shall any article released by such importation be exported to other than "Allied" destination.

2. Within sixty days from the execution of these presents, full statistics shall be obtained by the Norwegian Government and furnished to the accredited representative of the War Trade Board, and to accredited representatives of the Governments associated with the United States in the war, showing in detail the amounts of existing stocks in Norway of all articles enumerated in the annexed schedules A, B, C, D, E and F, and also showing the locations and ownership of such stocks. And while this agreement continues in effect complete statistical information shall be furnished monthly from the date hereof, to the accredited representative of the War

Trade Board, in regard to all exports from and imports into Norway. The statistics which shall be furnished shall be forthcoming not later than thirty days after the period to which they shall have reference, and shall state in detail the name, description and quantity, the country of exportation and country of destination of each commodity imported and exported, and shall include statistics in regard to trade with both neutrals and belligerents. If any question shall arise in respect to the observance of any restrictions of, or prohibitions against exports, full particulars shall, upon request, be furnished to the War Trade Board or its accredited representative in regard thereto, and the Norwegian Government will use every effort within its power in regard to the effective enforcement of such prohibitions, regulations and restrictions. To the end that such questions may arise as little as possible, the Norwegian Government is willing that the War Trade Board should require from importers in Norway, in return for the granting of licenses, such undertakings as to the disposal of the goods imported as may be in accordance with the terms of this agreement. The Norwegian Government shall have an opportunity to discuss with the representative of the War Trade Board the form of such undertakings. The War Trade Board reserves the right to refuse to accept guarantees which they have reason to believe are not offered in good faith. Such cases are to be explained to and discussed with the Norwegian branch associations.

3. Imports of the articles enumerated in the annexed schedules shall be distributed as evenly as possible throughout the year with due regard to seasonal requirements.

Norway is entitled to have at all times stocks of articles set out in schedules corresponding to at least three months' actual needs.

The right is reserved to the War Trade Board to determine the distribution of the allotments for export from the United States both as to time and port, but due consideration shall be given to any representations of the Norwegian Government that may from time to time be made in regard thereto. And the Norwegian Government will from time to time freely consult with the United States and its associates as to the oversea sources from which the articles which are to be imported into Norway shall be obtained.

4. All food and feed stuffs included within the schedules of estimated requirements obtained from the United States, shall be purchased through, or with the approval of, the Food Administration, and the vessels engaged in carrying such tonnage shall receive the same at any Atlantic or Gulf Coast port that may be designated by said Food Administration. The Norwegian Government will utilize the services of the Interallied Wheat Executive as their sole agent for the purchase of grain and flour everywhere except in the United

States and European countries, and vessels engaged in carrying such grain and flour shall receive the same at any port outside the United States that may be designated by said Executive.

The War Trade Board assures the Norwegian Government that the said Food Administration and the Interallied Wheat Executive will use every effort within their power to assist Norway in securing such commodities.

5. No articles, including those mentioned in Article III of this agreement, which are obtained, grown or produced, in whole or in part, by the use of any implements, machines, machinery, coal, gasoline, kerosene, oils, lubricants or other auxiliaries or articles hereafter imported from the United States, or hereafter imported from any country associated with the United States in the war, or whose importation shall be facilitated by the War Trade Board's license for bunker coal and ship's stores, or by the license or authority of any country associated with the United States in the war, shall be directly or indirectly exported from Norway to any country or ally of any country with which the United States is at war (including territory occupied by the military forces of such country). The foregoing shall be taken also to include any country, whether previously allied or neutral, all or a portion of whose territory is now occupied by Germany or her allies, excepting France, Italy and Belgium.

6. No articles, including those mentioned in Article III of this agreement, which are obtained, grown or produced, in whole or in part, by the use of any implements, machines, machinery, coal, gasoline, kerosene, oils, lubricants or other auxiliaries or articles hereafter imported from the United States or hereafter imported from any country associated with the United States in the war, or whose importation shall be facilitated by the War Trade Board's license for bunker coal and ship's stores or by the license or authority of any country associated with the United States in the war shall be directly or indirectly exported from Norway to any neutral country until after Norway shall have procured an agreement from such neutral country, with proper security for the enforcement thereof, that such commodities so exported shall not be directly or indirectly re-exported to Germany or her allies, nor shall any commodities which such articles so exported may serve to release be exported to Germany or her allies. The security mentioned above will be satisfactory to the United States as follows:

For Switzerland—anything going through the S[ociété] S[uisse de] S[urveillance Economique].

For Holland—anything exported through the N[etherlands] O[versea] T[rust].

For Denmark—anything exported through the Danish associations.

For Sweden—anything exported by means of Handels Kommission certificate.

Each of the foregoing associations will be satisfactory to the United States in the case of all articles which are included in the agreement between the respective importing association and the governments of the associates of the United States, but in respect of articles not so covered Norway will not allow their export to any neutral country which does not effectively prohibit the export of such or similar articles or articles made from or by means of or released by them in any form whatsoever, without prior consultation with and the written assent of the representative of the War Trade Board.

In case the Swedish agreement with the United States and/or its associates in the war, if and when made, shall designate some other Kommission or Association, such designation shall be substituted for the Handels Kommission in this agreement.

ARTICLE III

In consideration of the fact that Norway's requirements of necessities will be secured by the United States and the powers associated with her in the war, and in order to give the United States and said powers opportunity to buy considerable quantities of Norway's exportable surplus, the Norwegian Government agrees to the following restrictions of her exports to the Central Powers or their allies:

1. Norway will not export to the Central Powers or their allies foodstuffs of any kind except fish and fish products. Fish and fish products may be exported in quantities not to exceed 48,000 tons per annum, export weight.

The term "fish" shall be taken to include all categories of fish, both salt water and fresh water, including shellfish and marine animals, and the term "fish products" shall be taken to include the products of all fish as herein defined, whether fresh, salted, dried, smoked, canned or preserved in any way whatsoever, but there shall be no export to Germany or her allies of any oil or derivations thereof, of fish or of any marine animals. The quantity of fish and fish products which may be exported to Germany and her allies shall not exceed fifteen thousand tons in any three months and the amount which such export is more or less than twelve thousand tons in any quarter must be deducted from or added to twelve thousand tons the following quarter.

The export of each class of fish and fish products is to be made in the form in ordinary commercial use in the past, but the Norwegian

Government agrees that the export of "klipfisk" (i. e., dried salted fish) and "törfisk" (i. e., dried fish) shall not exceed 8,000 tons a year in all, and canned fish goods shall not exceed 15,000 tons a year.

While this agreement is in force, no fish caught by Norwegian boats shall, without the written consent of the Norwegian Government, be landed elsewhere than in Norway, nor shall any such fish be transferred at sea except in collecting vessels which shall be obliged to land their cargoes in Norway only.

2. The export per annum of the following articles from Norway to the Central Powers and their allies shall not exceed :

(a) Calcium carbide 10,000 tons.

(b) Calcium nitrate 8,000 tons.

(c) Ferro silicon 2,000 tons.

(d) Iron ore 40,000 tons, no part of which shall be in the form of pyrites, nor any ores containing manganese. Besides this quantity to be exported of iron ore, there may also, as compensation, be exported a quantity of same containing iron equal to the amount of iron contained in the iron and steel goods exported to Norway from the Central Powers or their allies, plus 5% for wastage. In no event, however, shall the aggregate quantity of iron ore exported by Norway under this clause exceed for any twelve months the amount exported in 1917 as per schedule attached.

(e) Zinc 1,000 tons. Besides this quantity to be exported of zinc there may also, as compensation, be exported a quantity of same containing an equal amount of zinc to that contained in goods exported to Norway from the Central Powers or their allies, plus 5% for wastage. In no event, however, shall the aggregate quantity of zinc exported by Norway under this clause exceed the amount exported in 1917 as per schedule attached.

(f) Aluminium, 40 tons.

The export of the foregoing articles, except by way of compensation, shall be distributed as evenly as possible over the year and the export of no article shall exceed half the annual quantity during the first six months.

3. Copper in the form of crude or refined copper or pyrites cinders on condition and to the extent that Norway shall receive within 60 days from the date of such export copper goods, or goods containing copper, the copper content of which shall be equal to the copper so exported less five per cent for wastage. In no event shall the aggregate quantity of copper (in whatever form it may be) exported by Norway under this clause exceed 200 tons. Nothing herein contained shall be construed to authorize or permit the exportation to Germany or her allies of pyrites in any form, except pyrites cinders, provided the total quantity of copper so exported shall not exceed 200 tons.

4. The Norwegian Government agrees that during the continuance of this agreement the following articles shall not be exported from Norway to the Central Powers or their allies:

Domestic animals or their products,
Bismuth,
Nickel,
Wolfram,
Mica,
Tin
Antimony
Manganese,
Titanium,
Chrome ore,
Pyrites,
Molybdenum,
Nitrates, except the 8,000 tons calcium
nitrate mentioned in Article III,
2(b).

5. The Norwegian Government agrees that the yearly export to the Central Powers and their allies during the continuance of this agreement of articles not mentioned in Article III, paragraphs 1-4, shall not exceed the quantities exported to the said countries from Norway in 1917, as given in the annexed schedule, marked H, nor include any other articles.

If Norway should desire to export to the Central Powers further articles not mentioned or additional quantities of those limited this will be sympathetically considered if the necessity should be shown therefor, but no such exports shall be made without prior written agreement with the War Trade Board.

6. In order to counteract the consequences of Norway having now for a long period of time had her supplies blocked, the moving of supplies to Norway, the stocks of which shall have been depleted shall be undertaken with the greatest possible intensity, as soon as the present agreement comes into force.

7. Owing to the fact that the interest of a number of persons and firms who have hitherto carried on exports to the Central Powers will through the provisions of the present agreement be seriously interfered with, it is understood that in case such persons and firms guarantee to discontinue all exports to the Central Powers and their allies, except exports permitted by the provisions of this agreement and referred to hereinafter in this section, they shall not be discriminated against after the conclusion of this agreement, provided such export was not carried on in violation of any existing undertaking or of any Norwegian law.

It is understood and agreed that the persons, firms and corporations who may export to the Central Powers the commodities in the quantities hereinbefore provided for, or in Section 2 of Article III

provided for, shall not, because of such export, be deemed enemies or be discriminated against by the United States or the nations associated with the United States in the war.

ARTICLE IV

By way of compensation for the allotment of Norway's requirements, enumerated in the annexed schedules A, B, C, D, E and F, the Norwegian Government will authorize and permit the export, free of export taxes, of the following commodities to the United States or to any of the countries associated with the United States in the war:

- (a) *Chemical Products*: Nitrates, cyanamide, calcium carbide, silicium carbide and similar products
- (b) *Metallurgical Products*: Aluminum, zinc, sodium, ferro silicon, ferro chrome, special steel hobnails and nails
- (c) *Minerals*: Iron ore concentrates and brickets, pyrites, molybdenite and other ores of the same class
- (d) *Wood and Manufactures of Wood*: Round timber, mainly pit props, sawn planed wood, pulp (dry), chemical pulp (cellulose), paper and matches
- (e) Fish and fish products;

and in granting export licenses for said commodities, which Norway hereby agrees to do, free of all taxes or charges, the Norwegian Government will give the United States and her associates preference over all other countries, except as hereinafter in this Article provided, for such quantities of said commodities in excess of Norway's genuine requirements for home consumption and as are hereinafter set forth.

It is understood that the preference just hereinbefore provided shall not apply with respect to the articles to be exported from Norway to the Central Powers in accordance with the provisions of Section 2 of Article III hereof.

The quantities which it is estimated will thus be available for export to the United States and the countries associated with the United States in the war are substantially as follows: (Quantities are estimated in metric tons).

1. *Chemical Products*: Nitrates 112,000 tons, cyanamide 10,000 tons, calcium carbide 30,000 tons, silicium carbide and similar products 3,000 tons, total 155,000 tons.

2. *Metallurgical Products*: Aluminum 12,000 tons, zinc 20,000 tons, sodium 500 tons, ferro silicon 20,000 tons, ferro chrome 5,000 tons, special steel hobnails and nails 3,000 tons, total 60,500 tons.

3. *Minerals*: Iron ore concentrates and brickets 200,000 tons, pyrites 130,000 tons, molybdenite and other ores of the same class 300 tons, total 330,300 tons.

4. *Wood and Manufactures of Wood*: Round timber, mainly pit props 150,000 tons, sawn planed wood in all 400,000 tons, pulp (dry

weight) 125,000 tons, chemical pulp (cellulose) 200,000 tons, paper 125,000 tons, matches 5,000 tons, total 1,005,000 tons.

5. Fish and fish products 48,000 tons.

Norway will permit the export to the United States and her associates in the war of any other commodities needed by them which she can spare.

6. Norway while this agreement is in force agrees that it will do nothing which will have the effect of interfering with exports of any of the commodities designated in this Article to the United States or to any country associated with the United States in the war. Norway while this agreement remains in force agrees that it will do nothing which will have the effect of preventing an increase in the production of such articles and consequent increase in the export thereof to the United States and her associates where such increase can be effected without prejudice to the genuine Norwegian requirements for home consumption.

Nothing in this section contained shall however be construed to prohibit the enactment of laws for the protection or advantage of the laboring classes.

ARTICLE V

Nothing herein contained shall be construed as in any manner modifying or changing the terms or conditions of any arrangements or agreements between the Governments of Norway and France, Italy or Great Britain providing for the prohibition or restriction of exports from Norway, or the terms or conditions of any arrangement or agreement between the Governments of Norway and France, Italy or Great Britain, or the terms or conditions of any guarantee given to or agreement made with those Governments by Norwegian citizens, which either is now in force or which having been in abeyance owing to the suspension of imports into Norway, may be revived when such imports recommence under the terms of this agreement. If any agreement by the terms of which Norway is receiving from any country associated with the United States in the war, all or any part of any commodity needs provided for in the annexed schedules, shall, during the continuance of this agreement, be denounced or terminated at the instance of the Norwegian Government, then the quantity of any commodity which Norway would have been entitled to receive had she permitted the agreement so terminated to continue in force, shall be deducted from the quantities of such commodities set forth in the annexed schedules.

2. It is understood that the Norwegian Government shall have the right to control the import and distribution of all commodities imported into Norway, except as in this agreement provided; any commodity of a kind needed in a manufacturing plant whose import

and distribution shall have been approved in this agreement by the Norwegian Government and which commodity shall be employed in producing manufactured articles for the United States or any country associated with the United States in the war, shall not, during the continuance of this agreement, be requisitioned, commandeered or otherwise diverted or distributed by the Norwegian Government to the detriment of the operation of such plant, nothing in this section however to apply to food.

3. The Norwegian Government hereby declares that it is ready to, and does hereby authorize trade associations in Norway to negotiate with the Governments of the United States, Great Britain, France and Italy for the conclusion, revival, renewal, extension or modification of all agreements with said Governments, all such agreements when finally negotiated to be subject to the approval of the Norwegian Government. And the Norwegian Government hereby declares its readiness to permit the enforcement of any control, restriction or prohibition in regard to imports and exports, and the distribution thereof, provided for in any such agreements, as far as consistent with existing Norwegian law.

It is understood and agreed that this agreement shall commence to operate May 10th, 1918.

IN WITNESS WHEREOF, The War Trade Board has caused these presents to be executed by Vance C. McCormick, its Chairman, and Dr. Fridtjof Nansen, Special Representative of the Norwegian Government, has executed the same on behalf of Norway, this thirtieth day of April, nineteen hundred and eighteen.

WAR TRADE BOARD

By VANCE C. MCCORMICK,

Chairman

FRIDTJOF NANSEN

Special Representative of the Norwegian Government

[Annex,1]

ANNUAL QUANTITIES OF SUPPLIES FOR NORWAY UNDER A GENERAL AGREEMENT WITH THE UNITED STATES. QUANTITIES IN TONS WHERE NOT OTHERWISE DESIGNATED

Kind of goods	Quantities in metric tons
SCHEDULE A—FOODSTUFFS	
Bread grains, including rice.	300,000. Barley used in substitution for rye or wheat as a bread grain will count in proportion of 1.4 to 1, which does not apply in the case of barley used in the manufacture of beer

ANNUAL QUANTITIES OF SUPPLIES FOR NORWAY, etc.—Continued

Kind of goods	Quantities in metric tons
SCHEDULE A—FOODSTUFFS—Con.	
Oil cakes and Indian corn	200,000. The figure for fodder stuffs of 200,000 tons is in terms of corn values and includes all concentrates. Oil cake being figured at 4 to 1 and includes the fraction of oil seeds in terms of oil cake later included in classification
Starches	1, 000
Cocoa	1, 400
Coffee	14, 500
Tea	160
Sauces and Pickles	80
Sirup	10, 000
Spices	382
Fruit, dried	4, 000
Fruit, fresh	6, 000
Sugar	50, 000
Pork and Beef	10, 000
SCHEDULE B—OILS AND FATS, ETC.	
Vegetable and Animal Oils	10, 000
Oil Seeds (for seed-crushing plants) . .	20, 000
Two items 10,000 tons vegetable and animal oil and 20,000 tons oil seed in terms of oil. This figure to be estimated in connection with Norwegian stock of fish oil suitable for fabrication into margarine with the addition of a certain amount of cotton seed oil. Any fats or oils to be used in Norway for fabrication of food stuffs under contract to the allies, including canning of fish, are to be especially provided for said purposes under special arrangement in each case	
Mineral Oils	76,500
Paraffin Wax, Stearine, Stearine Acid and Palm Acid.	750
Vegetable and Mineral Turpentine and White Spirit.	350
Varnishes	370
Shellac	68
Rape Oil	120
Ceresin, Carnauba Wax	40
Oils, Not Specified	1, 500

ANNUAL QUANTITIES OF SUPPLIES FOR NORWAY, etc.—Continued

Kind of goods	Quantities in metric tons
SCHEDULE C—RUBBER, ETC.	
Rubber, etc.	500
Rubber covers for automobiles and trucks.	17, 000 pieces (including new importations on cars)
Rubber tubes for same (including new importations on cars).	8, 300
Solid rubber tires for trucks (including new importations on cars).	1, 100
Rubber tires for motorcycles (including new importations on cars).	2, 100
Rubber tires [covers?] for same (including new importations on cars).	2, 100
SCHEDULE D—TEXTILES	
Silk yarns and tissues	110
Cotton, raw, yarn and manufactures. .	8, 000
Wool, wool yarn and products	3, 700
Flax, hemp, jute and tow	6, 500
Metal-working machinery of all kinds ^{50b} Fixtures, motor cars, motor trucks, bicycles, writing machines, cash registers, accounting machines, hardware and tools, chemicals, dyes, colors, drugs, medicines, agricultural implements and agricultural machinery, and other articles to assist Norway in increasing her own production of foodstuffs. ^{50b}	
	Subject to special agreements As required by Norway
SCHEDULE E—MISCELLANEOUS	
Corkwood	900
Borax and boric acid	80
Asbestos	350
Rock phosphate	40, 000
Antimony	12
Electrode-Carbon and carbon electrodes.	5, 000
Hides	3, 500
Tanning extracts	5, 000
Resin	4, 000
Tobacco	2, 000
Shoes, boots and rubbers (mostly rubbers).	200

^{50b} Formed part of schedule G of the draft agreement.

ANNUAL QUANTITIES OF SUPPLIES FOR NORWAY, etc.—Continued

Kind of goods	Quantities in metric tons
SCHEDULE F—METALS, MINERALS, ETC.	
Tin, raw	80 increase subject to future agreement
Tinplates	Subject to future agreement
Lead	1,000
Iron and steel (pig iron ingots, bars, hoops, angles, plates, pipes, fittings, wire, etc.).	250,000
Copper (plates, bars, pipes, wire, cable).	7,000

[Annex 2]

SCHEDULE H

[MAXIMUM QUANTITIES OF CERTAIN ARTICLES ALLOWED TO BE EXPORTED ANNUALLY FROM NORWAY TO THE CENTRAL POWERS UNDER THE TERMS OF THE GENERAL AGREEMENT]

	Metric tons *		Metric tons *
Down	0. 003	Phosphorous, raw	4. 296
Skin of Otter	0. 001	Blystam	1. 965
“ “ Fox	0. 685	Silver waste	1. 998
“ “ Polar Bear	0. 760	Pumps	0. 160
“ “ Seal	213. 190	Tools, etc.	11. 600
“ “ Shark	0. 550	Other manufactures of iron	0. 165
“ “ Wild Animals not specified	3. 430	Manufactures of silver	0. 003
Whalebones	16. 668	Manufactures of gold	0. 001
Furniture	0. 050	Other machinery	136. 324
Lichens	7. 009	Various tools and apparatus	11. 800
Writing paper	0. 080	Medicines, Norgin and Tangin	0. 222
Various manufactures of paper	0. 018	Books	1. 778
Waste of paper	314. 395	Rat poison	8. 100
Rutil	2. 133	Ice	99. 000
Granite	2, 531. 020	Waste of soapstone	7. 760
Felspar	1, 260. 000	Seaweed	425. 000
Soapstone	231. 780	Moosehorn	2. 000
Stone chiseled	97. 267	Lead ash	21. 683
Whetstones	98. 670	Screws	0. 732
Felspar dust	125. 500	Old electric motors	6. 542
Talcum	17. 120	Iron ore	133, 614. 000
Seaweed ashes	478. 300	Zinc	4, 467. 000

Figures to the right of the decimal point are kilograms.

350

*The Secretary of State to the Ambassador in Great Britain (Page)*⁵¹

[Telegram]

WASHINGTON, May 3, 1918—5 p. m.

7564. For Sheldon [from War Trade Board]:

No. 409. Your 361, Embassy's 9298 April 1, 6 p.m. Certain technical considerations involving formalities in the execution and confirmation of agreements of the scope of the proposed arrangement with Sweden make it impracticable for the Government of the United States to become a formal signatory party thereto. The State Department is prepared, however, to assure the Swedish Government that licenses will be issued as contemplated by the agreement.⁵²

LANSING

351

*The Acting Secretary of State to the Minister in Switzerland (Stovall)*⁵³

[Telegram]

WASHINGTON, May 3, 1918—6 p. m.

1846. Legation 3210 April 30 1 p. m. Dresel number 18. It is not the fact that no wheat ships for Switzerland will leave the United States for the next three months. It is the fact that Germany has semi-officially announced (and this announcement has been confirmed verbally to Department by Swiss Minister) that her proffered safe conduct for United States ships *enroute* to Cette for Swiss Relief cannot be effective for three months, since it will take this period to modify the existing orders to submarine commanders under which American ships carrying wheat to Cette for Swiss Relief are to be torpedoed. This means in so far as American ships are concerned that Germany is still maintaining an armed blockade of Switzerland and that the American wheat on American ships heretofore tendered to Switzerland cannot go forward unless these ships are prepared to fight their way through the blockade which Germany has created and which even closes the supposed free passage to the port of Cette. This challenge the Government of the United States is prepared to meet. Two ships under American flag loaded with grain for Switzerland are now *enroute* to a French Atlantic port escorted by units of the United States Navy.

⁵¹ File No. 658.119/289; For. Rel., 1918, supp. 1, p. 1225.

⁵² For relation of the War Trade Board to the agreement of May 29, 1918, between the Allied Governments and Sweden see document 361.

⁵³ File No. 654.119/221; For. Rel., 1918, supp. 1, p. 1619.

In addition to such measure of relief as can be afforded to the Swiss by the United States diverting its naval forces to insure by force of arms the receipt of grain by Switzerland, there still exists the possibility of receiving supplies on neutral ships although this possibility has greatly diminished since the sinking by a German submarine of the Spanish steamer *Sardinero*, outside of the war zone limits, when engaged in carrying wheat for Swiss Relief.

The measures heretofore taken by the United States should however be a sufficient earnest of the intention of the United States to insure delivery of wheat for Switzerland, and it should be borne in mind that the extraordinary efforts which the United States has made and will continue to make, will result in still further diminishing of supply of wheat for our own people, when exports already made to cobelligerents and to neutral countries have reduced domestic supplies to a point where the average per capita consumption of wheat in the United States is substantially below the per capita consumption of wheat in Switzerland.

You are authorized to give publicity to the foregoing statement if you see fit, making any change in the verbiage which seems to you desirable.

PHILLIPS

352

Public Statement by the War Trade Board, May 4, 1918 ⁵⁴

[Extract]

A new edition of the Enemy Trading List, revised to March 15, 1918, has just been published by the War Trade Board, combining and bringing down to date all previously published lists, supplements, and announcements of persons and associations with whom it is illegal to trade. It covers for the first time the European countries and other countries for which no American list had previously been issued,⁵⁵ earlier American lists having applied only to the countries of Latin America.

The list contains some 5,000 names, but the listing of a partnership is to be understood as the listing of all the partners individually, and the listing of one member of a partnership is to be understood as the equivalent of listing the partnership and each of the other members. The list is not complete, the board having listed only individuals and associations concerning whom it had adequate information to justify this procedure. A warning is therefore given

⁵⁴ *The Official Bulletin*, Washington, May 4, 1918 (vol. 2, no. 301), p. 9.

⁵⁵ Denmark, Greece, Iceland and the Faeroe Islands, Morocco, the Netherlands, Netherland East Indies, Norway, Spain, and Sweden.

against trading with persons with knowledge or reasonable cause to believe that they are enemies or allies of enemies or are conducting or taking part, directly or indirectly, in trade with enemies or allies of enemies.

Very soon after the passage of the trading-with-the-enemy act it became evident that cooperation by the associated Governments and uniform action in the treatment of enemy trade cases, as far as possible under their variant laws, were essential to the efficient working of an economic offensive and the full accomplishment of its purposes to prevent assistance reaching the enemy. Moreover, suggestions had been received from American importers and exporters that steps be taken in this direction. In the interest of accomplishing this desirable end Great Britain, France, and the United States, aided by a spirit of cordial good will, have adopted practically uniform lists for all countries. Italy has also approved this policy in principle.

It is hoped that this cooperation of the Governments concerned will result in a continuance of uniformity in the lists, so that in net effect they will form one consolidated enemy trading list.

353

*The Secretary of State to the Ambassador in Great Britain (Page)*⁵⁶

[Telegram]

WASHINGTON, May 10, 1918—6 p.m.

7677. For Sheldon [from War Trade Board]:

Number 463. Your number 530. Embassy 9920 May 7 6 p. m. We are not inclined to view with favor the adoption of the principle that the embargo against northern neutrals should be generally relaxed in favor of pro-ally firms, even under the restrictions set out in your cable. We feel that it would seriously weaken the force of our embargo since the receipt of staple commodities by a firm not only benefits that particular firm but increases the prosperity of the country as a whole, giving additional and profitable employment for capital and labor, and giving the public generally an opportunity to participate in the goods manufactured therefrom. We have, of course, already agreed to the principle of permitting imports of non-essentials so that the additional relaxation which is suggested would operate primarily to release essentials.

To adopt the plan you suggest would in our opinion be the practical lifting of the embargo, exports to be controlled by a white list rather than by a black list. We also feel that the creation of such a white list would be a very difficult problem and likely to create

⁵⁶ File No. 600.119/698; For. Rel., 1918, supp. 1, p. 985.

commercial jealousy among the associated governments. In particular we feel that it would be difficult to prevent American merchants from feeling that British merchants had far greater facilities for presenting to A. B. C. their claims for right to trade with neutral concerns with whom they have heretofore had business relations. Unless therefore stronger arguments can be adduced than appear in your number 530, we are disposed to oppose the adoption of the course therein suggested. We would prefer, if some further relaxation is deemed essential, that it take the form of an extension of non-essential list.

LANSING

354

*The Chargé in Great Britain (Laughlin) to the Secretary of State*⁵⁷

[Telegram]

LONDON, May 22, 1918—5 p. m.

[Received May 23—3.15 a. m.]

10185. War Trade Board from Sheldon:

No. 626. After several weeks conferences between Allied Governments and Iceland delegates, at which I was present or represented, an agreement has been reached between British, French and Italians on one side and Icelanders covering in detail the points summarized below.⁵⁸

1. Allies grant facilities for import of specified lot of rations carefully minimized for one year, all contingent on conservation except three items which are to be guaranteed, namely: A, 30,000 tons coal from U K; B, 7,500 tons kerosene, 100 tons diesel crude, 100 tons benzene, 150 tons lubricating from United States; C, 11,500 tons cereals mostly from United States.

2. Iceland sells all the clips of 1916 and 1917 wools now in Iceland, say one thousand tons excepting only sixty tons already the property of Danish Government, see letter from Bigelow to Woolley April 25, this means that Iceland has to commandeer stocks much of which is held in Danish names probably for enemy account. Following is schedule of wool prices in kroner per kilogram:

[Schedule not printed.]

Net price of sheep skins to be twelve kroner per bundle of two skins averaging eight kilograms per bundle.

3. Iceland gives Allies option on the whole exportable surplus of wool at above prices and on fish and all other products at sched-

⁵⁷ File No. 659a.119/14; For. Rel., 1918, supp. 1, p. 1363 (extract).

⁵⁸ The agreement, signed on May 23, is printed in full in For. Rel., 1918, supp. 1, pp. 1363-1371.

uled prices exportable during currency of agreement from date of signing till May 1919, excepting only those they request which may be exported to approved consignees in Denmark.⁵⁹ Articles on which option is not exercised by Allies may be exported only to approved consignees.

4. British send wool expert to Iceland operating under direction of British Consul and acting for all interests.

5. All wool transactions to be settled in kroner at par of exchange in Iceland.

6. If by reason of signing this agreement the Iceland banks lose the foreign credits which they now have, the Allies agree to procure credits for them for approved purposes up to five hundred thousand pounds. This is a clause adapted from the expiring British agreement and entails no obligations on the [others?]

It appears important to conclude the agreement promptly to keep the old stocks of wool from passing to enemy ownership and to retain control of all exportable products. In fact, the main object of the agreement is to keep supplies from enemies for there is no valid ground for refusing to permit fish shipments to Denmark. British, French, and Italians ready to sign. It is not proposed that United States should be a party to the agreement but that a separate letter be signed by me⁶⁰ in language similar to Swedish adherence, see my cable 560, May 11th, and your 511, May 20th binding War Trade Board to issue licenses for articles mentioned in paragraph one, namely, guaranteeing licenses for oils and cereals but only to license other rations if [they can] be spared; also to furnish bunkers and ships stores to vessels lifting rations. . . .

LAUGHLIN

⁵⁹ The War Trade Board instructed its London representative as follows on May 29, 1918:

"With reference to wool, we will take all wool obtainable provided this can be secured at current United States option prices. . . . We will also take any amount of sheep skins at prices not exceeding the maximum here . . ." (File No. 659a.119/14; For. Rel., 1918, supp. 1, p. 1372).

⁶⁰ The letter, dated Sept. 11, 1918, read as follows:

"Referring to the agreement signed on the 23rd May, 1918, between the British, French, and Italian Governments on the one hand and the Icelandic Government on the other, the War Trade Board of the United States, an administrative agency empowered by executive order of the President to license exports from the United States, whose powers are administrative and pertain wholly to the United States domestic and internal affairs, will grant licences, so long as the agreement shall remain in force and be observed by the Icelandic Government, for the export (1) of cereals and petroleum as provided in the agreement and the schedules annexed thereto, and (2) of other articles enumerated in the ration list, in so far as such other articles are not required for consumption in the United States, or in nations associated with the United States in the war, or to meet other obligations of the United States subject to the condition that the petroleum and other commodities or articles enumerated in the ration list will not directly or indirectly be exported from Iceland except as provided in the agreement. L. P. Sheldon, War Trade Board." (File No. 659a.119/84; For. Rel., 1918, supp. 1, p. 1377).

355

*The Secretary of State to the Chargé in Great Britain (Laughlin)*⁶¹

[Telegram]

WASHINGTON, May 27, 1918—3 p. m.

7947. For Sheldon [from War Trade Board]:

No. 564. Swedish Negotiations: Your number 627, Embassy 10171, May 22, 6 P. M., and your number 621, Embassy 10191, May 22, 8 P. M. These cables are answered by our number 555. We reaffirm the authority thereby given you to adhere to agreement provided tonnage is definitely assured us and if you feel that there is no chance of insisting successfully upon increase of tonnage or upon the other points mentioned in our number 505, particularly in regard to increased exports to Germany. While our authority heretofore given you stipulated that Associated Governments must obtain as a minimum 400,000 tons of shipping, we are prepared and you are authorized if necessary in the judgment of yourself and associated negotiators to consent to reduction to 388,000 tons as your number 621 intimates may be necessary. We strongly oppose, however, this further reduction of 12,000 tons, not so much on account of the amount of tonnage involved as because it seems to involve acceptance of the principle that requisitioned tonnage must be off-set against tonnage which otherwise would be chartered. We are cabling you separately in regard to our views relative to tonnage details specified in your number 621.

Concerning purchase of Swedish iron ore mentioned in your number 607, Embassy 10121, May 17, 7 P. M., we are carefully considering the manner in which this government can best carry out the informal understanding that it will share one-third of the burden of such purchase. There are legal objections which may make it impracticable for the United States to make a loan to the Allies to cover one-third of the cost, since such a loan would have to be coupled with an understanding to share one-third of the ultimate loss, and it would be difficult legally to bind the government to bear such a loss at some indefinite future date. It is likely therefore that we may be compelled to purchase out-right one-third of the ore. Please cable us as promptly as possible the best available estimate as to the amount of money which would be involved in our purchasing one-third of the ore to be contracted for and dates of payment.

LANSING

356

*The Acting Secretary of State to the Secretary of the Navy (Daniels)*⁶²

WASHINGTON, June 4, 1918.

SIR: I have the honor to enclose, for your consideration, a copy of a note from the British Ambassador in which, by instruction of his

⁶¹ File No. 658.119/382; For. Rel., 1918, supp. 1, p. 1238.

⁶² File No. 763.72112/8091; For. Rel., 1918, supp. 1, p. 918.

Government, he announces that it proposes, on the advice of the War Trade Advisory Committee, to make certain additions to the list of British absolute contraband, and inquires whether this Government would be prepared to concur in these proposed modifications.

This Department would like, if possible, to say in reply that the articles proposed to be added to the British contraband list are included in the list issued in the *Navy Regulations of June, 1917*.⁶³ This Department would, therefore, be glad to have your comments on this note in general and with particular reference to the existing contraband list as set forth in the *Navy Regulations* mentioned.

I have [etc.]

WILLIAM PHILLIPS

[Enclosure]

*The British Ambassador on Special Mission (Reading) to the
Secretary of State*

No. 389

WASHINGTON, April 10, 1918.

[Received April 12.]

SIR: I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inform you that His Majesty's Government propose, on the advice of the War Trade Advisory Committee, to make the following additions to the list of British absolute contraband.

(1) For the sake of uniformity, as Bamboo and Rattans are already on the list, "Willows and Osiers".

(2) "Sodium fluoride" which is one of the raw materials used in the manufacture of artificial cryolite.

(3) For expanded metal and other forms of iron and steel lattice work, which are much used in the construction of trenches and other military works, "tin waste". In order primarily to cover litharge red lead and also for the sake of uniformity it is also proposed to substitute "lead and its alloys, salts compounds and ores" for lead and lead ore"; and in order to cover oxides of tin and also for the sake of uniformity, to substitute "tin and its alloys, salts, compounds and ores" for "tin, chloride of tin, tin ore"; and to substitute for "wire steel and iron", "wire steel and iron and manufactures thereof."

I am instructed to enquire whether your Government would be prepared to concur in these proposed modifications and I should accordingly be grateful if I might be informed, at your early convenience, of the decision you have been able to take in the matter.

I have [etc.]

(For the Ambassador)

COLVILLE BARCLAY

⁶³ Document 261.

357

*The Secretary of the Navy (Daniels) to the Secretary of State*⁶⁴

WASHINGTON, June 18, 1918.

SIR: In reply to your letter of June 4, 1918, enclosing a copy of a note from the British Ambassador in which he announces that his Government proposes, on the advice of the War Trade Advisory Committee, to make certain additions to the list of British absolute contraband, and inquiring whether this Government would be prepared to concur in these proposed modifications, I have the honor to forward herewith a copy of an opinion by the Judge Advocate General of this Department on the subject, which opinion has the approval of the Department.

Sincerely yours,

JOSEPHUS DANIELS

[Enclosure]

The Acting Judge Advocate General of the Navy (Freyer) to the Chief of Naval Operations

WASHINGTON, June 15, 1918.

SUBJECT: State Department, *re* proposed additions to British list of absolute contraband.

REFERENCE: (a) State Department's letter No. So. 763.72112/8091 of June 4, 1918, with enclosure, attached hereto. (b) *Instructions for the Navy of the United States Governing Maritime Warfare, June, 1917.*

1. Returned.

2. Considering that the items "Bamboo, rattans, willows, and osiers" are all articles actually used or capable of being used in the manufacture of aircraft parts, it may be concluded that such items are already embraced in the contraband list of Reference (b), Article 24 (b); and considering that the item "Sodium fluoride" in the form of "artificial cryolite" is involved in the production of metallic aluminum which is extensively employed in the manufacture of arms, ammunition, and in aircraft production, this item is embraced in the same list, (a), (b) and (c), all three; and considering further that the items "tin waste", "lead and its alloys, salts, compounds, and ores", "tin and its alloys, salts, compounds and ores", "wire steel and iron and manufactures thereof" are all employed or capable of being employed as "materials or ingredients used in their (munitions) manufacture", these items come under the same list, (a) and (b).

⁶⁴ File No. 763.72112/9135; For. Rel., 1918, supp. 1, p. 918.

In brief, it is concluded that the "Contraband List" of Reference (b) which is expressed in very comprehensive and inclusive terms, embraces as it stands the several items proposed to be added to the British list of absolute contraband.

3. In this connection it should be noted that in Reference (b) there is no expressed distinction between "absolute contraband" and "conditional, or relative, contraband". Destination appears to be the deciding factor in this respect.

F. B. FREYER

358

The Secretary of State to the Chargé in Great Britain (Laughlin) ⁶⁵

[Telegram]

WASHINGTON, June 19, 1918—11 p. m.

8326. For Sheldon [from War Trade Board]:

No. 681. Your 748 Embassy 10509 June 8 1 p. m.

We feel that the subject of neutral vessels carrying German safe-conducts should receive very careful consideration. Safe-conducts to vessels engaged in Belgian relief may be justified since they are engaged in transporting goods destined to pass through the enemy's lines and which goods are therefore subject to stoppage by him. The German Government now, however, appears to be adopting the practice of issuing safe-conducts which are nothing more than an assurance that the giver of the safe-conduct will not accomplish that which under international law he is forbidden to do. The safe-conduct thus becomes a device to insure control of neutral shipping through a threat to seize illegally neutral vessels not accepting this control. Unless the Associated Governments take effective steps to meet the situation neutral shipping generally may soon be subject to enemy control in a manner which will be as effective as the control which we exercise by virtue of our bunker control. We feel that the Associated Governments may shortly desire to take the position that such safe-conduct as is now being issued by the German Government constitutes in itself a certificate that the vessel is operating subject to a form of German control. Certainly we should do nothing at the present time which should preclude us from some such action in the future should it become desirable, and we should not in any way formally acquiesce in this German system of safe-conduct.

In accordance with the foregoing views we are not prepared to give any formal consent to Swedish vessels carrying letters of safe-conduct, such as suggested in your 748, on the other hand, should Swedish vessels elect to carry such safe-conducts without our official knowledge or acquiescence we see no objection to their doing so at the present time.

LANSING

⁶⁵ File No. 763.72112 Sa/16; For. Rel., 1918, supp. 1, p. 1082.

359

*The Secretary of State to the Minister in Cuba (Gonzales)*⁶⁶

[Telegram]

WASHINGTON, June 22, 1918—3 p.m.

From War Trade Board:

No. 90. Referring yours June 12th, 11 p.m. We are allowing American coal to go to Cuba for the benefit of Cuba, and we prefer to have Cuban Government restrict the sailings of all vessels from Cuba to Mexico by declining to allow them to have the coal which we have shipped for Cuba's own use. Please arrange along these lines if possible. Show to Morgan.

LANSING

360

*The Secretary of State to the Swedish Minister (Ekengren)*⁶⁷

No. 436

WASHINGTON, June 26, 1918.

SIR: I have received your note of April 30th last, acknowledging the receipt of a communication expressing this Government's decision, reached after the most careful and thoughtful consideration, that Article XII and Article XVII of the Swedish-American treaties of 1783 and 1827, respectively, had no application to the delay in American ports caused to the Swedish motor ships *Kronprins Gustaf Adolf* and *Pacific* on account of difficulty in obtaining export licenses for quantities of bunker oil carried on board the ships on their arrival in America. In this relation you state that the Swedish Government's view concerning the application of the articles of the treaties in question is the opposite of that held by this Government, and you ask, accordingly, for a statement of the reasons for the apparent difference in the interpretation of the treaty stipulations by the two governments in this case.

I have the honor to state, in reply to your communication, that Article XVII of the Swedish-American treaty of 1783, while forbidding both the laying of an embargo and the detention of ships, vessels or merchandise in general "by seizure, by force or by any such manner," does not appear to place the United States under obligation to refrain from applying general regulations for the control of commodities exported from or taken out of this country, to the Swedish motor ships in question.

⁶⁶ File No. 652.119/1000; For. Rel., 1918, supp. 1, p. 1738.

⁶⁷ File No. 658.119/338; For. Rel., 1918, supp. 1, p. 1278.

An embargo has been defined by M. Calvo, as you are informed, as a prohibition of leaving, generally applied to merchant ships, and usually imposed in order that the ships may be employed in the service of the nation laying the embargo, or that they may hinder and obstruct the operations of the enemy. You will not fail to perceive, therefore, that no embargo has been laid upon the ships *Kronprins Gustaf Adolf* and *Pacific*. Moreover, this Government has not prohibited the sailing of the ships in question, nor has it prohibited the exportation of the bunker oil which they carried. It has merely required, for reasons which will readily occur to you, the licensing of all commodities desired to be removed from the jurisdiction of the United States. The law on this subject makes no distinction between the exportation of an article of commerce and the taking out of an article which has never been entered at a customs house of the United States and never left the ship on which it came into the territorial waters of this country. It is obvious that there is a wide distinction between necessary compliance with the licensing regulations of the United States relating to articles of commerce exported or taken out of the jurisdiction of the United States, and detention, "by force, by seizure or by any such manner," under Article XVII of the Treaty of 1783.

I have the honor further to state that this Government, after careful consideration of the provisions of Article XII of the Treaty of 1827, is constrained to the opinion that no part of this article can be considered to have been intended to apply to cases such as those of the two ships in question, and that a construction of the several provisions of the article makes it appear that the provision according to vessels the privilege of freely departing refers to departure free of a duty on that portion of the cargo not landed, and not to departure free of commercial regulations, quarantine regulations, port charges and similar restrictions. This construction is made more certain by the fact that the subject of port charges appears to have been dealt with independently in the concluding provision of the same article.⁶⁸

In conclusion I may add that it is understood that certain of the co-belligerents of the United States in Europe having similar treaties with Scandinavian countries, negotiated a century or more ago and

⁶⁸ The cases of these two ships were submitted to arbitration and the following decision was rendered on July 18, 1932:

"That the Government of the United States did not detain the Swedish motor ship 'Kronprins Gustaf Adolf' between June 23, 1917, and July 12, 1918, and the Swedish motor ship 'Pacific' between July 1, 1917, and July 19, 1918, in contravention of the Swedish-American Treaties of April 3rd, 1783, and July 4th, 1827." (Arbitration between the United States and Sweden Under Special Agreement of December 17, 1930: The "Kronprins Gustaf Adolf" and the "Pacific": Arbitral Decision and Record of Proceedings, p. 100.)

intended to cover situations then in contemplation but quite different from those presented by present-day conditions of commerce and shipping, do not regard them as applicable to cases similar to those under discussion.

Accept [etc.]

ROBERT LANSING

361

*The Secretary of State to the Minister in Sweden (Morris)*⁶⁹

[Telegram]

WASHINGTON, June 26, 1918—4 p. m.

894. Legation 2308 June 15 5 p. m. and Legation 2342, June 20, 5 p. m. You will present to the Minister of Foreign Affairs a note and enclosure in the following terms:

"I have the honor to acknowledge receipt of your note of June 14th in which you advise me that your Government has ratified and approved the agreement signed at London on May 29th by representatives of the Governments of Sweden, Great Britain, France and Italy. I am instructed by my Government to advise you that the Secretary of State of the United States has received from the chairman of the War Trade Board of the United States a communication of which a copy is enclosed herewith. I take this occasion to express my gratification and that of my Government at this conclusion of the negotiations which have been pending."

The following is the text of the communication which is to constitute the enclosure above referred to:

"June 26, 1918. The Honorable the Secretary of State, Washington, D. C.

Sir: Referring to the agreement dated May 29, 1918, between the Government of Sweden on the one hand and the Governments of Great Britain, France and Italy on the other hand, I have the honor to inform you that the War Trade Board of the United States, an administrative agency acting pursuant to authority conferred upon it by the President of the United States pursuant to acts of Congress, will, so long as the agreement shall remain in force and be observed by the Swedish Government, grant licenses in accordance with the terms of said agreement and in particular will grant export licenses covering the commodities enumerated in the first schedule of the agreement, in so far as the commodities (1) are not required for consumption in the United States or in nations associated with the United States in the present war or to meet other obligations of the United States, and (2) will not directly or indirectly be exported to any country or ally of any country with which the United States is or may be at war.

⁶⁹ File No. 658.119/454; For. Rel., 1918, supp. 1, p. 1280.

I am, my dear Mr. Secretary, Very truly yours, V. C. McCormick,
Chairman, War Trade Board of the United States."⁷⁰

LANSING

362

*Executive Order Allotting \$6,000,000 for the Purchase of Swedish
Iron Ore, June 29, 1918*⁷¹

By virtue of the authority vested in me by "An Act Making appropriations to supply deficiencies in appropriations for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and prior fiscal years, and for other purposes", approved April 17, 1917, appropriating the sum of \$100,000,000, "for the national security and defense, and for each and every purpose connected therewith", (and which appropriation was by Act of Congress approved December 15, 1917, "continued and made available until June thirtieth, nineteen hundred and eighteen") I hereby order, that out of said sum so appropriated there be allotted six million dollars (\$6,000,000.) to be expended by the Secretary of Commerce in payment to the proper authorities of the Government of Great Britain of one third part of the purchase price (together with the storage and transportation charges and any other expenses incurred in connection with the purchase, storage, and/or transportation to the United States) of 2,000,000 tons of Swedish iron ore, the purchase of which is provided for in the agreement of May 29th, 1918, between the Governments of Great Britain, France and Italy and the Government of Sweden.

WOODROW WILSON

THE WHITE HOUSE,
29 June, 1918.

⁷⁰ The following earlier statement appears in the War Trade Board print of the agreement of May 29:

"May 29, 1918.

The War Trade Board of the United States, an Administrative Agency empowered by executive order of the President to license exports from the United States, whose powers are administrative and pertain wholly to the United States domestic and internal affairs, adheres to the Agreement signed this day between the British, French and Italian Governments on the one hand and the Swedish Government on the other hand, and further agrees to grant licenses during currency of this Agreement for the articles enumerated in the ration list of this Agreement in so far as the same (1) are not required for consumption in the United States or in nations associated with the United States in the War, or to meet other obligation in the United States, and States domestic and internal affairs, adheres to the Agreement signed this day (2) will not directly or indirectly be exported to any country or ally of any country with which the United States is or may be at war so long as the above-mentioned Agreement shall remain in force and be observed by the Swedish Government.

(Signed) WAR TRADE BOARD
By L. P. SHELDON"

⁷¹ Executive Order No. 2897.

363

*The Secretary of State to the Ambassador in Spain (Willard)*⁷²

[Telegram]

WASHINGTON, July 2, 1918—3 p. m.

1284. For Chadbourne No. 132. Smith. [from War Trade Board]:

Consider very important arrange that vessels not touching American ports proceeding Spain from South America, Central America, Mexico, West Indies, etc. be compelled call Porto Rico for examination to avoid necessity Allied Blockade Fleet requiring vessels proceed Kirkwall or Gibraltar for examination. Confidentially reported Mexico assembling quantity Mexican coal at Tampico to enable Spanish vessels proceed direct between Mexico, Spain for frank purpose evading our jurisdiction.

LANSING

364

*The Secretary of State to the War Trade Board Representative in Cuba (Morgan)*⁷³

[Telegram]

WASHINGTON, July 2, 1918—8 p. m.

No. 110. Your 121, June 26, and your 120, June 26, 5 p. m. Our No. 90 was sent to the Legation with the request that it be shown to you. War Trade Board have decided, for the time being and until further notice, to continue to issue bunker licenses freely to vessels of Spanish registry, but, as stated in War Trade Board No. 96, this will be limited to apply only to Spanish vessels clearing from Atlantic or Gulf ports of continental United States. Accordingly, there is no longer any reason why sailings of Spanish vessels from Cuban ports should be facilitated, and the War Trade Board are desirous that no bunkering facilities should be extended to Spanish vessels bound for Mexico.

As stated in our No. 90, the Department and War Trade Board feel that you should not resume the practice of refusing to counter-sign permits but that such permits should be refused by the Cuban Government upon the ground that all coal which is shipped from the United States to Cuba is intended only for Cuba's own use. Please advise at once whether the foregoing plan will be carried out by the Cuban authorities, and whether this will provide a satisfactory means of dealing with Spanish vessels.

LANSING

⁷² File No. 658.119/524b; For. Rel., 1918, supp. 1, p. 1738.

⁷³ File No. 637.119/454; For. Rel., 1918, supp. 1, p. 1738.

365

*The Secretary of State to the Ambassador in Great Britain (Page)*⁷⁴

[Telegram]

WASHINGTON, July 2, 1918—11.22 p. m.

2. For Sheldon [from War Trade Board]:

754. Agreement reached between England, France and United States to issue all enemy trading licenses with certain exceptions only after cases have been submitted to Conference of representatives of Governments mentioned above and recommendation of such conference made. Plan effective July 1st. For cases involving trading with listed or other enemy persons in Denmark, Sweden, Norway and Holland, Conference to sit in London. You will cooperate with designated representatives of France and England in such Conference. Plan of procedure between War Trade Board and yourself will be as follows:—Where deemed advisable by War Trade Board to grant license in case which must under agreement be presented to Conference and which involves trading with a listed or other enemy person in Sweden, Norway, Denmark or Holland, circumstances of case and recommendation of War Trade Board with reasons, together with War Trade Board reference number for the particular case, will be cabled to you. You will present case to Conference with War Trade Board recommendation and reasons. Upon Conference approving or disapproving War Trade Board recommendation, you will cable action of Conference to War Trade Board, marking such cable for Bureau of Enemy Trade, identifying particular case by *resume* of facts and War Trade Board reference number. All cables from War Trade Board will be confirmed by despatch. You will also confirm all cables to War Trade Board by despatch. Italy will probably participate in the near future. Despatch containing full text of War Trade Board resolution on subject in question and giving complete instructions follows.

LANSING

366

*The Secretary of State to the Ambassador in France (Sharp)*⁷⁵

[Telegram]

WASHINGTON, July 3, 1918—6 p. m.

4911. For [Mc]Fadden [from Fuller, War Trade Board]:

No. 171 Stetson. Following resolution adopted War Trade Board on recommendation Bureau War Trade Intelligence.

⁷⁴ File No. 763.72112/10204b; For. Rel., 1918, supp. 1, p. 1030.

The same, on the same date, to the Ambassador in France (No. 4872) for McFadden (No. 163), with substitution of "Switzerland, Spain and Morocco" for "Denmark, Sweden, Norway and Holland," and of "Conference to sit in Paris" for "Conference to sit in London." (File No. 763.72112/9724a.)

⁷⁵ File No. 763.72112A/2059a; For. Rel., 1918, supp. 1, p. 1031.

"*Resolved* that War Trade Board approve in principle creation of Enemy Trading List for Switzerland provided same shall be applied in manner not inconsistent with terms of agreement of December 5th, 1917, between War Trade Board and Government of Switzerland relative to distribution in accordance with regulations of Societe Suisse de Surveillance Economique.

Further resolved that no such list shall be actually published or made effective until approval of War Trade Board representative at Berne has been secured."

Will you cooperate with your colleagues in preparation of this list, communicate text of resolution to War Trade Board representative Berne, keep him advised of progress in compiling list, when list is prepared ask that his approval be telegraphed Washington for publication same? Fuller.

LANSING

367

*The Secretary of the Navy (Daniels) to the Secretary of State*⁷⁶

Op-36

28517-306

WASHINGTON, July 5, 1918.

SIR: I have the honor to acknowledge the receipt of your letter of June 26, 1918, relative to inquiries made by Professor George Grafton Wilson, of Harvard University, in regard to the status of the Hague Conventions in their relations to the operations of the war against Germany and the routing of neutral merchant vessels.

Replying to your request for information as to the nature of the participation of American naval officers in the British practices with respect to the searching and routing of neutral vessels, I have to state that American naval forces in European waters have been engaged largely in anti-submarine operations and in escorting convoys. The belligerent right of visit and search has been exercised on the high seas everywhere in accordance with "*Instructions for the Navy of the United States governing Maritime Warfare, June, 1917*, except that boarding vessels are not required to make entries in ships logs where such entries would give information facilitating unlawful attack by enemy submarines. Mandatory routing of neutral merchant vessels has not been practiced by our Navy.

Sincerely yours,

JOSEPHUS DANIELS

⁷⁶ File No. 763.72112/9371; For. Rel., 1918, supp. 1, p. 924.

368

*The Secretary of State to the Minister in Cuba (Gonzales)*¹⁷

[Telegram]

WASHINGTON, July 5, 1918—5 p. m.

Your telegram June 4, 10 a. m.

There does not appear to be any necessity for making reply to the inquiry from the Mexican Post Office Department in view of fact that Mexico has withdrawn her diplomatic representative from Cuba for the reasons given in the official announcement of the Mexican Minister for Foreign Affairs. However, should Cuban Post Office Department deem it necessary to make reply a simple acknowledgment would seem all that was required.

As regards the question of right of search of neutral mails passing through belligerent territory, it may be said that it must be recognized that mails are extensively used for the transmission of merchandise. Merchandise may be properly defined to include money, evidences of indebtedness, et cetera, comprehending money orders, checks, drafts, notes and other negotiable instruments, stocks, bonds, coupons, and other similar securities. Mails may thus be used to transmit contraband of war directly or indirectly to or from an enemy country, also for the transmittal of hostile despatches either to or from, directly or indirectly, an enemy country. There is no doubt that military information has been and is being sent to and from Germany directly and through neutral countries contiguous to the belligerents. If, therefore, a belligerent has a right to prevent the transmission of contraband to the enemy and hostile despatches to or from the enemy, there is ample ground for the inspection by one belligerent of mails passing between neutral countries in this hemisphere and Germany or countries contiguous to Germany so long as those neutral countries do not take steps to keep contraband and noxious despatches out of Government mails. In view of the foregoing there can be no objection in principle to the censorship of mails, but there may be objection, first, as to the method used such as dilatory tactics, excessive detention of vessels et cetera, and, second, to the abuses of the exercise of censorship such as the detention of innocent articles, personal letters, et cetera. If you should deem it necessary to make use of the foregoing, you may informally and unofficially present them not as views of this Government but as grounds upon which a practice of censoring mails may perhaps be justified.

LANSING

¹⁷ File No. 837.711/36; For. Rel., 1918, supp. 1, p. 1739.

369

The Acting Secretary of State to the British Ambassador on Special Mission (Reading) ⁷⁸

No. 152

WASHINGTON, July 10, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your note Number 389 of April 10, 1918, informing me that your Government, on the advice of the War Trade Advisory Committee, proposes to made certain additions to the list of British absolute contraband.

After consultation with the Departments of this Government concerned with this matter, I take pleasure in stating that the competent authorities of his Government regard the articles which you state the British Government proposes to add to its absolute contraband list, as included in the list set forth in the *Navy Regulations* issued by this government in June, 1917.

Accept [etc.]

FRANK L. POLK

370

The Secretary of State to the Ambassador in Great Britain (Page) ⁷⁹

[Telegram]

WASHINGTON, July 12, 1918—2 p. m.

180. Your 10360, May 31, 1 p.m.

Mr. Nielsen, an assistant solicitor of the Department, is on his way abroad, and is under instructions to take up this matter with you upon his arrival. I would be pleased if there could be placed at his disposal all the information which the Embassy and Consulate-General may have on the subject ⁸⁰ and advise with him in respect to carrying out the following instructions: ⁸¹

The Department has given careful consideration to the point raised by the British Government that they feel they could not release American goods seized under the British Order in Council of March 11, 1915, and abandon the opportunity to justify seizures before the Prize Court, if the possibility remains that the Foreign Office would at some future time be faced with claims based on the invalidity of the order.

The Department is not clear whether it is the desire of the British Government that they should receive assurances that if the particular

⁷⁸ File No. 763.72112/9135; For. Rel., 1918, supp. 1, p. 921.

⁷⁹ File No. 300.115/14100.

⁸⁰ The Ambassador was instructed Aug. 15, 1918: "It having become impracticable for Nielsen to proceed to London, Department desires you to address a communication to Foreign Office in sense of Department's telegram No. 180, July 12, beginning with words: 'The Department has given careful consideration'."

⁸¹ See document 300 for earlier instruction on this subject.

goods in question should be released no question would subsequently be raised in any case between the two Governments as to the validity of the Order, or merely that they should be assured that no diplomatic claims would be presented in the particular cases in which goods might be released in accordance with the contemplated arrangement.

The Department would be willing to reach an understanding with the British Government to the effect that, in cases in which owners of goods seized would be willing to receive them under certain conditions including an understanding that no claims resulting from their seizure would subsequently be made on the British Government, the Government of the United States would regard such cases as finally adjusted so far as concerns pecuniary reclamation against the British Government therefor, reserving, however, for future discussion the general question of the propriety and the validity of the Order in Council of March 11, 1915, on principle or in particular cases not settled under this proposed arrangement.

The Government of the United States could not enter into any arrangement for the release of goods which would contemplate any undertaking on its part to withdraw from its attitude previously expressed with regard to the order of March 11, 1915, or not to raise any question in the future as to the validity of the Order in Council, or to withhold protection of rights of American citizens which may appear to have been infringed by the Order in Council and therefore to warrant espousal by the Government of the United States.

While it may be the British Government at this time desire only to obtain assurances with regard to claims that might be based on the particular cases to which they refer, the Department deems it desirable with a view to avoid any future misunderstanding that the position of the Government in this matter should be made entirely clear.⁸²

Please show a copy of this to the Consul-General.

LANSING

371

*The Acting Secretary of State to the British Ambassador on Special Mission (Reading)*⁸³

No. 161

WASHINGTON, July 18, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your note Number 588 of May 29, 1918, informing me that your Govern-

⁸² For further correspondence on this subject see For. Rel., 1920, vol. II, pp. 617 ff. See also Treaty Series No. 756, "Arrangement effected by exchange of notes between the United States and Great Britain for the disposal of certain pecuniary claims arising out of the recent war, signed May 19, 1927".

⁸³ File No. 763.72112/8835; For. Rel., 1918, supp. 1, p. 921.

ment, at the request of the Admiralty, proposes to add "citric acid and citrates" to the list of British absolute contraband.

After consultation with the Departments of this Government concerned with this matter, I take pleasure in stating that the competent authorities of this Government, understanding that "citric acid" is recognized as the active principle of lime juice, which is included in the naval ration of some governments as an anti-scorbutic, and that the "citrates," or some of them, are classed as drugs or medicines useful to the armed forces as well as to the general population, regard "citric acid and citrates" as included in the Contraband List set forth in *Instructions for the Navy of the United States Governing Maritime Warfare, June, 1917*.

Accept [etc.]

FRANK L. POLK

372

*The Acting Secretary of State to the Ambassador in Great Britain (Page)*⁸⁴

[Telegram]

WASHINGTON, July 23, 1918—7 p. m.

363. For Sheldon [from War Trade Board].

No. 896. Your 1016 Embassy 342 July 16 10 a. m. We are unable to concur in view of foreign office that Germany's proposed system of safe-conducts does not have any fundamental effect on the shipping situation. While it is doubtless correct that neutral vessels trading in Allies interests will be sunk when any opportunity affords, nevertheless the safe conduct system will permit of the classification of neutral tonnage into two categories, one, vessels operating to some extent in Allies interest and consequently not receiving safe conducts and, two, neutral vessels operated to no extent whatever in the Allies interest, but primarily in the interest of the neutral and also of the enemy. Heretofore neutral shipping, aside from that chartered to us, has practically all been performing some service to the Allies. These vessels will now in large part be precluded from rendering such services and the tendency will be to increase the number of vessels which will be entitled to safe-conducts through subjecting their cargoes, passengers, crew and destination to German visa. We point out that under proposed system it will become exceedingly difficult to supply northern neutrals goods required for the production of exports to the allies. Also we must anticipate that this German system will be utilized to break down our system of control through consignment to approved agency. We are confronted by an instance of this in attempt of Germany to utilize safe conducts to prevent exports from Norway to Holland being consigned to the N[etherlands] O[versea] T[rust]. We also see evidence in the case of Swedish shipping of an unwillingness of Sweden to permit their ships to perform incidentally service which may be useful for the

⁸⁴ File No. 763.72112Sa/13; For. Rel., 1918, supp. 1, p. 1089.

Allies for fear that this will jeopardize their chances of obtaining safe-conduct. There is furthermore a distinct benefit to Germany in definitely assuring itself in advance that a large block of shipping will not assist Allies since that will facilitate German naval operations and permit concentration of efforts against shipping not supplied with safe conducts.

We are not yet clear in our own minds as to what policy we should adopt, but we are giving careful consideration to a request from the French Government that we should conform to the decision which they have taken to treat vessels bearing such a safe-conduct as proper subjects for Prize Court proceedings. You are authorized to present our views as above expressed to the British authorities and we shall be glad to receive as soon as possible an indication of the conclusion which the British reach as a result of the further study which you state they are giving this matter.

Repeat to McFadden.

POLK

373

*The Acting Secretary of State to the Ambassador in Great Britain (Page)*⁸⁵

[Telegram]

WASHINGTON, July 25, 1918—7 p. m.

403. For Sheldon [from War Trade Board].

No. 926. Special meeting of War Trade Board was held yesterday July 24th, to consider situation arising from Germany's threatened control over neutral shipping by "safe conduct" system. There were also present Crawford, Fisher, and Hudson of the British Embassy and Grimprel of French High Commission. After exhaustive discussion it was generally agreed that the situation should not be temporized with but that the associated governments should promptly make clear to the neutral governments concerned the consequences which acceptance of German control might entail. It was felt that if Germany is permitted unopposed to institute her system of control by safe-conduct, it will be inevitable that such control will gradually be extended and developed to a point where the associated governments will be bound to take notice and oppose the same. Since such development appears to be inevitable we are strongly of the opinion that the associated governments should take immediate action before the neutral governments and peoples are accustomed to this device, while the neutral governments are still protesting against German pressure and might be aided by the statement of our position and while military developments are favorable. The following proposal was adopted by the War Trade Board and has since been approved by the Department of State:

"1. The Associated Governments (Great Britain, France Italy and the United States) will through diplomatic channels simultaneously and as promptly as possible communicate to the European

⁸⁵ File No. 763.72112 Sa/23a; For. Rel., 1918, supp. 1, p. 1090.

neutral governments an identic communication, the substance of which will be as follows;

The Associated Governments are reliably informed that the German Government now is attempting to control neutral shipping generally through a new device improperly termed a 'safe conduct', which constitutes in fact but a threat of illegal condemnation or destruction unless German control is accepted. Such control would extend to German supervision of the personnel of passengers and crew, the character and consignment of cargo, mails, etc., and the movements of the vessel itself. Large sums of money must in at least certain instances be placed under the control of the German Government by the neutral ship owners, this being in effect but a forced loan. The Associated Governments observe that such control may operate to deprive vessels accepting the same of their neutral character and the Associated Governments accordingly reserve the right to deal with any vessel which has subjected itself to enemy control as the circumstances in each case may warrant.

2. While the foregoing communication will be made through diplomatic channels it must be anticipated that the attitude of the Associated Governments will become publicly known. It may indeed be deemed desirable for the Associated Governments to make a public statement along the lines of the communication above referred to. In any case, special steps will immediately be taken through press dispatches etc., to inform neutral peoples of the details of German threats and of the control which they would impose and to educate these peoples as to the consequences which such control would entail according to the general accepted principles of international law. Unless this is effectively done German propaganda may result in putting us, in the eyes of the neutral world, in the position of attempting to tie up neutral shipping with the object of nullifying the trade agreements recently concluded."

It will be noted that the above proposal does not definitely commit the associated governments to any specific form of action in the event that despite their observations neutral shipping accepts enemy control. It is felt that the course to be adopted in this contingency should be left for determination in view of the specific circumstances which may call for such decision.

We have given a copy of the above quoted proposal to the British Embassy and the French High Commission which we understand have cabled the same to their respective governments with, we believe, expressions of their approval of the course therein outlined. We expect also to discuss the matter with the Italian Embassy.

The Foreign Office will doubtless discuss this matter with you and in the event that they do so you are instructed to endeavor to secure the concurrence of the British Government in the foregoing proposal.

Please cable as very confidential a copy of the foregoing proposal to the American legations at The Hague, Stockholm, Christiania and Copenhagen with request that they cable the Department an express[ion] of their views. We are cabling McFadden in terms similar to this cable to you and requesting him to repeat our proposal to the American Embassy at Spain.

Upon receiving your report State Department will instruct diplomatic representatives.

POLK

374

*The Acting Secretary of State to the Ambassador in France
(Sharp)*⁸⁶

[Telegram]

WASHINGTON, August 1, 1918—4 p. m.

5176. For [Mc]fadden, [from Fuller, War Trade Board].

No. 223, Stetson. Embassy's 4521 July 20, 6 p. m. Your 284. Regard inclusion Japan in coordination plan and conferences Paris, London and Washington extremely desirable and important. Negotiations for that purpose in progress here several months. We proposed unification U. S. and Japanese Enemy Trading Lists to Japanese Embassy, April 4. Embassy notified us Tokio's assent June 21. Desirable that French and Italian governments join us in urging England to agree inclusion Japan at once. White List not proposed. Prefer leaving place conferences on lists for China as detail for later consideration. Fuller.

POLK

375

*The Acting Secretary of State to the Ambassador in Great
Britain (Page)*⁸⁷

[Telegram]

WASHINGTON, August 5, 1918—8 p. m.

624. For Sheldon [from War Trade Board]:

970. Your 1115, Embassy 650 July 27, 5 p. m. The Department of State is instructing American Legations at The Hague, Stockholm, Christiania, and Copenhagen and the Embassy at Madrid that upon receipt by their British French and Italian colleagues of similar instructions they shall deliver to the government to which they are accredited a note in the following terms:

"The Associated Governments are reliably informed that the German Government now is attempting to control neutral shipping generally through a new device improperly termed a "safe conduct", which constitutes in fact but a threat of illegal condemnation or destruction unless German control is accepted. Such control would extend to Germany's supervision of the personnel of passengers and crew, the character and consignment of cargo, mails, etc., and the movements of the vessel itself. The Associated Governments observe that such control may operate to deprive vessels accepting the same of their neutral character and the Associated Governments accordingly reserve the right to deal with any vessel which has subjected itself to enemy control as the circumstances in each case may war-

⁸⁶ File No. 763.72112/9493; For. Rel., 1918, supp. 1, p. 1033.

⁸⁷ File No. 763.72112Sa/83; For. Rel., 1918, supp. 1, p. 1093.

rant. It should clearly be understood that a ship sailing under an enemy "safe conduct" will render herself liable to be detained until the conditions which the enemy government has attached to the issue of "safe conducts" have been ascertained and scrutinized, in order that such action may be taken as the circumstances may be deemed to warrant."

We are advising Mr. McFadden of the foregoing.

No instructions are being given by the Department relative to making public the above quoted statement. We are not in favor of formal publicity of this character feeling that the public announcement of this simultaneous joint action of the four associated governments in the neutral European countries will result in the public attaching great importance thereto and exaggerating the character of the action to a point where we shall appear to be weak unless we follow up our announcement by drastic action as to which we do not now wish to be committed.

POLK

376

*The Minister in Switzerland (Stovall) to the Secretary of State*⁸⁸

[Telegram]

BERNE, August 8, 1918—6 p. m.

[Received August 10—9.41 a.m.]

4244. War Trade Board [from Dresel]:

No. 115. Your number 73, Department's 2392 August 3rd. Although constant pressure has been exercised Allied representatives have so far been unable to obtain positive decision from Swiss agreeing to blacklisting S.S.S. members. Subject has now been under discussion for nine months but objection has constantly been made by Swiss that action contemplated would permanently ruin Swiss houses and firms and persons dealing with them. At informal conference with S.S.S. July 31st British delegate and I told S.S.S. that question of principle would have to be decided before August 15th if publication by Paris committee was to be avoided, also that a list of 44 names submitted to S.S.S. for blacklist should be accepted in substance by that date. Reply has now been received stating that federal Council needs more time for investigation. I approve proposed resolution and request specific authority to formally inform Federal Government that if favorable action, as stated, not taken by September 1st at the latest, Paris Committee will, with approval of War Trade Board include S.S.S. Members on published list.

I agree with French Consul that inclusion will not violate Article 3 upon the ground that this Article merely forbids discrimination upon the ground of Nationality. The proposed BlackList will not dis-

⁸⁸ File No. 763.72112/9746; For. Rel., 1918, supp. 1, p. 1035.

This telegram was replied to on Aug. 20 as follows: "Your 115, your views approved. You are authorized proceed accordingly."

criminate this manner but will be made up on the basis of proved acts of contraband, illegal practices, and violation of S.S.S. regulations, all without regard to nationality of offender.

I am keeping Paris constantly informed upon the subject and shall arrive Paris 12th for consultation BlackList and other important matters. Dresel.

STOVALL

377

*The Secretary of State to the Ambassador in Great Britain (Page)*⁸⁹

[Telegram]

WASHINGTON, August 13, 1918—4 p. m.

753. For Sheldon [from War Trade Board]:

No. 1029. Your 1190 Embassy 930 August 8, 7 p. m. We are very much surprised at the reversal by the foreign office of their previous decision to join with France, Italy and United States in making announcement to neutral governments concerning German "safe conducts". The reason for this change as given by your cable does not seem to us to be convincing. It has, of course, been obvious from the beginning and it was clearly set out in our 926 Department 403 July 25, 7 p. m. that there was a certain amount of danger lest the Germans claim that they were attempting to facilitate and the Allies to tie up neutral shipping. The necessity of taking effective steps through newspaper propaganda to combat this was set out in our cable referred to. We also for this reason proposed a form of declaration which would not commit us to any definite course of action but which would constitute in effect but an express reservation of rights conceded us by international law. The British Government in accepting the policy advocated by us seemed however desirous to go even further than we had thought fit by adding to the declaration a statement relative to the possible detention of all vessels bearing German "safe conducts" and, we understand, by favoring making public officially the action taken. It is therefore with very great surprise that we note the British reversal of what we had assumed was a maturely considered decision reached by them. You do not indicate any new or special objections urged by their ministers in the European countries. We have heard from the American diplomatic representative in all of the neutrals affected and their opinion on the whole is as favorable as could be expected in the case of a uniform course of action to be taken in several different countries. Of course, conditions are not identical in all of the neutral countries and it must be expected that each legation will desire our action to be especially adapted to the special conditions of its own country. We feel, however, that the advantage of simultaneous and uniform action more than outweighs the advantage of attempting to deal with each neutral as a special case.

⁸⁹ File No. 763.72112 Sa/32; For. Rel., 1918, supp. 1, p. 1096.

The Ambassador to Spain expresses his approval of the suggestion which he thinks cannot fail to impress the Spanish Government. His only suggestion is that the announcement be not made public. The Legation at Christiania appears to be heartily in favor of the proposed course of action and desires that the Allied announcement be made public. Recent cables shown us by French here indicate that Ministers at Christiania are anxious to be authorized at once to take the proposed action. The Legation at Copenhagen suggests only a modification of the procedure, recommending that announcement be made publicly at Allied capitals rather than to neutral governments. The legation at Sweden [*Stockholm*] agrees that vigorous action should be taken in view of German control being exercised to bring about a breach by Sweden of the recently concluded agreement. Legation at the Hague appears to disapprove of announcement but apparently is under a misapprehension as to the real purport thereof, the legation assuming that it definitely commits the Allies to preventing all Dutch boats carrying German "safe conducts" of whatever character. The Minister seems apprehensive lest our declaration would operate to make void the assurances heretofore given covering the *New Amsterdam* and the Dutch vessels in Dutch ports on March 20th. The French communicated to us the views of their representatives in the neutral countries concerned and these views correspond in general to those of our own representatives.

Taking into account these expressions from the neutral capitals, we still adhere to the views heretofore expressed by us unless there are presented against the proposed course of action arguments which are stronger than any yet disclosed to us. We note that the British Government is in favor of making a declaration to the Swedish government and proposes to send a similar note to any other neutral governments as soon as information is forthcoming that conditions imposed by German "safe conducts" warrant such action. As pointed out in our No. 962 [926], it seems to us almost inevitable that unless the Allied position is promptly and forcibly expressed the German government will develop its "safe conduct" system, as in the case of Sweden, to a point where the Allied governments must take notice thereof. One of the primary reasons for advocating the proposed course of action is to forestall such development of the "safe conduct" system by Germany and to assist those neutrals, such as Norway, who are negotiating with Germany to secure the elimination of the most obnoxious features of German control. If the British are prepared to make the proposed announcement to the Swedish government, and if, as appears to us to be the case, there is every reason to believe that similar action will at some future time have to be taken by the Allies in respect of the other neutral countries, we do not see the advantage of waiting and dealing with these situations in an isolated manner when they arise. We feel that the effect upon Germany and upon the neutrals will be far greater if at the outset the four associated governments communicate an identic statement to the neutral governments concerned. We would prefer, however, for reasons heretofore expressed, to eliminate the last sentence which the British Government desired to add to the text of the

statement proposed by us, and we would also prefer not to make public in any formal manner the text of the statement or the action of the associated governments in making the same.

As an instance of the control which Germany is beginning to exert over neutral shipping even in western Atlantic waters, we call to your attention the case of the Swedish ship *Ceylon*. This ship was to have taken a cargo of merchandise to Montevideo but the Swedish Legation asserted very vigorously that this Swedish vessel could not be allowed to carry cargo to Uruguay which had broken relations with Germany. It is inconceivable to us that Germany will not attempt to extend this control and apply it to all neutral shipping and we accordingly reiterate our opinion that the associated governments should take immediate action in respect of the neutral government concerned, at a time when German control by "safe conduct" is still a novelty and when on this account it can perhaps be most effectively met. You will please at once lay before the British officials with whom you have discussed this matter, the foregoing views of the War Trade Board.

LANSING

378

*The Secretary of State to the Ambassador in Great Britain (Page)*⁹⁰

[Telegram]

WASHINGTON, August 21, 1918—3 p. m.

885. Please refer to Sheldon's 1227 Embassy 1090 August 14, 3 p. m. and previous cables on subject of German safe conducts. The importance of this subject is such that the Department desires you after having consulted with Sheldon to take up the matter officially with the Foreign Office and to present the views of the Department herein set forth. Assuming that it is impossible to secure British adherence to United States proposal for a joint and simultaneous declaration on German safe conducts to the neutral nations concerned, Department agrees to the delivery by the four associated governments to the Swedish Government alone of a somewhat similar declaration, the contents of such declaration to be communicated to the Ministers in the other neutral European countries for their information and to enable them informally to acquaint the government to which they are accredited with the attitude of the associated governments as expressed to the Swedish Government. Department is not, however, willing to accept the precise text of the proposed note to the Swedish government set out in Sheldon's 1227. Department's objection to this proposed statement is that it is too narrow in that it rests objection to safe conduct simply on supposed viola-

⁹⁰ File No. 763.72112Sa/55b; For. Rel., 1918, supp. 1, p. 1099.

tion of our agreement with Swedish Government. If Associated Governments are officially to take cognizance of German safe conducts, Department feels it to be most important that this government reserve their rights in a broad manner such as proposed in War Trade Board's 926 Department's 403 of July 25. Otherwise there is danger that Associated Governments will be put in the position of acquiescing in enemy control exercised through safe conducts, except where such control happens to involve the violation of an agreement with the neutral. Department points out that there are certain neutrals with whom we have no agreement which might be interfered with by safe conduct conditions and where nevertheless this Government may desire to oppose German control through safe conduct. Also in the case of Sweden there are respects in which safe conduct is seriously objectionable and where it may not result in the contravention of the agreement or at least not of article 14 thereof. An instance of this is the case of Swedish vessels refusing to carry cargo from United States to Uruguay, which instance has already been reported to Sheldon. Accordingly, Department is not willing to accept the form of statement proposed in Sheldon's 1227, unless there is added thereto a general sentence somewhat as follows:

"The Associated Governments further observe that enemy control through such a device as a so-called safe conduct or otherwise may operate to deprive vessels accepting the same of their neutral character, and the Associated Governments accordingly reserve the right to deal with any vessel which has subjected itself to enemy control, as the circumstances in each case may warrant."

Please cable at once the views of the Foreign Office on this subject and if British are in accord with Department's position, Department will issue appropriate instructions to ministers in accordance with foregoing.

LANSING

379

*The Secretary of State to the War Trade Board Representative in Cuba (Morgan)*⁹¹

[Telegram]

WASHINGTON, August 21, 1918—4 p.m.

Referring to conversation held in Mr. Stabler's office. Report at once fully by cable results of your efforts to cause all Spanish steamers to call at a port under American control before and after touching at Cuba.

LANSING

⁹¹ File No. 652.119/1456a ; For. Rel., 1918, supp. 1, p. 1743.

380

*The Secretary of State to the Ambassador in Great Britain (Page)*⁹²

[Telegram]

WASHINGTON, August 24, 1918—5 p.m.

951. For Sheldon [from War Trade Board]:

No. 1100 Department's 2 July 2d our 754. War Trade Board has been informed by Italian Representative on Washington blacklist committee that Italian Government not prepared to participate in enemy trading license conference plan. British Government has received cable from Foreign Office London stating that French Representative in Washington states French Government prepared to agree in event certain further exceptions made. From this it would appear that French Government has not as yet given full agreement. Pending final agreement we will transmit to you such cases as would be submitted to London Conference. You will discuss these informally with proper British authorities and proper French official in London. You will cable result of such discussion to War Trade Board. Upon definite agreement reached with British Government formal conference will be resumed without awaiting Italian participation. You will be notified.

LANSING

381

*The Secretary of State to the Minister in the Netherlands (Garrett)*⁹³

[Telegram]

WASHINGTON, August 27, 1918—6 p. m.

1974. Legation 3437 July 14 noon and supplementing Department 1904 August 10, 2 p. m. The proposed agreement with the N[etherlands] O[versea] T[rust] should be made with the War Trade Board of the United States. This agreement should be a separate and distinct agreement from the agreement made with the N.O.T. by the other associated governments, although the War Trade Board agreement may be concluded simultaneously with the others and be as nearly identical with them as is practicable, in view of the somewhat different point of view of this government from that of the other associated governments. The following is the comment of the Department and the War Trade Board on the points enumerated in your 3437:

Article 1. Is the present arrangement whereby wheat and other foodstuffs are consigned directly to the Netherlands Government to continue or will the N.O.T. be substituted for the government? See Netherlands agreement print, page 3 section 14 and page 37.

⁹² File No. 300.115/14373c; For. Rel., 1918, supp. 1, p. 1038.

⁹³ File No. 656.119/617; For. Rel., 1918, supp. 1, p. 1524.

Articles 2 and 3. The bill of lading should contain the name of the importer.

Articles 4, 5, 6, 7 and 11. In view of the policy of this Government with respect to the trade of neutrals, it is not desired by the agreement with the N.O.T. to seek to control the movement of ships and commodities except through the control of ships that belong to the United States or persons of the United States, or through the control of commodities coming from or to the United States, or through the prevention of trade with the enemy direct or indirect by persons in the United States, leaving out of consideration for the moment measures of prevention by maritime capture, etc. For these reasons it is not desired that the War Trade Board agreement with the N.O.T. stipulate for the control of vessels that do not touch at ports of United States or elsewhere where the United States furnishes or controls bunkers or other supplies from the United States, or the control of commodities which do not come from or to the United States. Subject to the foregoing limitations the principle of 4, 5, 6, 7, and 11 are approved. The limitations involved by the policy of this government as above expressed must however be taken into account in drafting all parts of the agreement, and the suggestions hereinafter made are to be worked out subject to these limitations. A broader control covering commodities and vessels not coming under the United States territorial jurisdiction may subsequently be secured by voluntary agreement with the Netherlands government in return for certain concessions which we may make as part of a rationing agreement.

Article 8 raises, by implication, the whole question of re-exports from Holland which should be carefully considered. The British and French agreements with the N.O.T. both provide that the Trust guarantees consumption in Holland of all merchandise consigned to it including all articles and products manufactured or composed from such imported merchandise. This does not, however, prevent re-export to a Dutch colony, and, with the exception of articles enumerated, does not prevent re-export to a neutral country if the Trust guarantees consumption in that neutral country, and if intermediate transportation is not through an enemy country. Effort should be made to obtain from the Trust an assurance that exports will be made exclusively to one of the Associated Governments when the exported articles are made in Holland out of product received in Holland by virtue of the authorization of an Associated Government.

The French agreement, made later than the British, contains a more extended list of enumerated articles not to be exported to neutral countries. The further possible extension of this list should be considered. The British and French agreements contain no clauses

specifying who the consignees shall be in neutral countries, but merely require the Trust to guarantee consumption in such neutral countries. Later communications, however, require a guarantee from the Danish Associations and from Norwegian individual importers and associations and prohibit exports to Sweden. See Agreement Print pp. 8 and 9. It should be possible now to revise these arrangements, especially as regards Norway and Sweden, in view of the control machinery now being set up in these countries. In a supplementary letter to the French agreement, the Trust adds that it will endeavor as much as possible to prevent the export of merchandise existing or produced in Holland which is freed by imports to the Trust and is similar to such imports. The term "similaire" is considered to mean products corresponding to the same needs as those consigned to the Trust. See Agreement Print p. 32. In the pending negotiations will there not be an opportunity to arrange that Dutch potatoes and perhaps some other food stuffs be treated as articles "similaire" to bread cereals? In the Swedish agreement all food stuffs are listed as articles "similaire" to bread cereals. See Agreement Print, p. 30. This would require modification of the agreement by the British and General Trading Association and the Landbouw Export Bureau relating to the export of agricultural products. See Agreement Print p. 38.

Articles 9 and 10 seem proper.

Referring further to Article 11. It is suggested that it might be desirable to qualify the 5 percent clause so as to allow objections to be made by the War Trade Board or I[nter-] A[llied] T[rade] C[ommittee] in case of abuse. In connection with this article it might be proper to refer to goods of Dutch origin or goods imported from neutrals via Germany or from the Allies. These three classes are covered in the British and French Agreements under licensed goods from Dutch Home Ports. Sections 18a-e, p. 3, and Sections 18a-e, p. 30 in the Agreement Print might serve as a basis for this subject. To what extent, if any, is it now expected that the Netherlands Export Company should take over the N. O. T. functions in this class of cases?

Articles 12 and 13. Treasury Department desires that no financial clauses be inserted in agreement and that for present existing status of financial control be not disturbed. It is desired that in lieu of Articles 12 and 13 there be substituted a general clause to effect that N. O. T. will subsequently when requested by or on behalf of United States accept such financial clauses as may then be eventually agreed to.

Following additional comments are submitted for your consideration: (a) The skeleton set forth in your cable does not touch upon the general question of supervision and detention of ships and goods

en route to or from Holland. This subject is covered in the first part of both the French and British agreements under which control is left to the British. Should we not share in this Shipping Control to the extent that it will be exercised regarding ships touching United States ports and lifting cargoes covered by export licenses issued by War Trade Board? See your cablegram January 29 in this connection. (b) There should be a clause to the effect that the Trust will furnish as far as practical all information regarding Dutch products and imports and exports whether or not included within the agreement.

You are authorized to discuss the foregoing with your British, French and Italian colleagues and to draft a tentative form of agreement in accordance with the foregoing instructions. When such an agreement has been drafted the complete text thereof should be forwarded to the Department for the final approval of the Department and of the War Trade Board and that proper instructions may be given for the execution of the same on behalf of the War Trade Board. It is suggested that you obtain from Sheldon, unless you already have them, the form of proposed agreement with the Norwegian Trade Association and copies of the Swedish and Norwegian Agreements. These may be useful to you in drafting the agreement with the N. O. T.

LANSING

382

*The Secretary of State to the Chargé in Norway (Schoenfeld)*⁹¹

[Telegram]

WASHINGTON, August 27, 1918—7 p.m.

441. Your 1038, August 20, 6 p. m.

You are instructed to deliver the following note to the Minister of Foreign Affairs:

"I have the honor to acknowledge the receipt of Your Excellency's note of August 20, the text of which I immediately telegraphed to my Government. I am now instructed to communicate to Your Excellency my Government's reply.

The Government of the United States has given careful consideration to the Norwegian Government's note of the 20th August and has noted especially the request for more detailed information in regard to cases of violation of the territorial waters of Norway by German submarines.

In view of the fact that in the present war the operations of the naval forces of the United States, excepting certain units cooperating with the British Grand Fleet, have been confined to waters far distant from the coasts of Norway, the Government of the United

⁹¹ File No. 763.72111 N 83/59.

States is unable to furnish the desired information based upon the direct observation and personal knowledge of American officers. Nevertheless, since the naval forces of the United States are in constant and intimate association with the naval forces of the Entente Powers, the naval activities of the Central Powers coming to the knowledge of the Entente authorities are immediately communicated to the naval authorities of the United States, and the information thus received is considered to be as reliable as if it had been obtained by American officers.

In view of the fact that the British Government have furnished to the Norwegian Government concrete cases and definite information of violations of Norwegian territorial waters by German submarines, the Government of the United States does not think it would serve any good purpose to repeat this detailed information since its source of knowledge being the same as that of the Norwegian Government, it could add nothing to the facts already in the possession of the Norwegian Government.

The Government of the United States is also advised that the Norwegian Government has been informed that the Governments of the United States and Great Britain are engaged in laying a barrage across that portion of the North Sea lying between Scotland and Norway, which when completed will effectively prevent the passage of enemy submarines to and from the Atlantic Ocean by the northern route through the North Sea provided that they are not permitted illegal passage through the territorial waters of Norway.

The Norwegian Government cannot be unmindful of the fact that in the prosecution of the war being waged against the Central Powers the Government of the United States is transporting across the Atlantic Ocean hundreds of thousands of troops and immense quantities of supplies and munitions for their maintenance and use. Possessed of this knowledge the Norwegian Government must perceive that so long as German submarines are permitted to pass unmolested through the coastal waters of Norway into the Atlantic Ocean from the North Sea, the military forces of the United States, the supplies necessary for their subsistence, and the munitions required for their operations will be, while upon the high seas, in serious danger of submarine attack and destruction.

In view of the menace to American interests which will result from the free passage of submarines through the territorial waters of Norway, the Government of the United States believes that the Norwegian Government will realize the obligation which rests upon it to prevent by every means in its power the passage of German submarines through waters within the jurisdiction of Norway. Furthermore it cannot fail to realize that if Norwegian waters are used by belligerent submarines as a rendezvous whence they can freely pass into the Atlantic Ocean for hostile purposes the waters so used may justly be considered a base of naval operations, the establishment of which within Norwegian jurisdiction the Government of the United States believes to be entirely contrary to the will and intention of the Government of Norway.

In the circumstances the Government of the United States most earnestly urges the Norwegian Government to take all necessary

steps to prevent a situation which might cause serious embarrassment to both Governments which would be deeply regretted by the Government of the United States as it has only the most friendly feeling for the Government and people of Norway and is desirous to prevent as well as to remove all causes of difference affecting the good relations of the two countries in their intercourse with each other."

LANSING

383

*The Secretary of State to Diplomatic and Consular Officers in Latin American Countries*⁹⁵

No. 618

Special Instruction
Consular

WASHINGTON, August 30, 1918.

GENTLEMEN: In the administration of the Trading with the Enemy Act, the War Trade Board has found it expedient to compile several distinct lists of names of individuals and associations as an aid to effective restriction of Enemy Trade. At the request of the War Trade Board, the Department sends you herewith a brief description of these lists and of their purposes as an indication of the way in which the diplomatic and consular service may best aid in compiling and perfecting them.

I. THE ENEMY TRADING LIST

This list is compiled to give merchants, bankers, shippers and others notice that "trade" with the persons and associations whose names are included in it may involve a violation of the Trading with the Enemy Act of October 6, 1917, or may result in restrictions being imposed under regulations issued in pursuance of Title VII of the Espionage Act of July 15, 1917. Three classes of persons and associations are listed:

1. "Enemies" as defined by the Enemy Trading Act and as extended by the President's Proclamation of May 31, 1918, issued in pursuance of Section 2-c thereof, and as defined in Department's circular telegraphic instructions of September 14, 1917, and June 14, 1918.

2. "Allies of enemies" as defined by said Act.

3. Those who are trading, directly or indirectly, for or on account of, or on behalf of, or for the benefit of an "enemy" or "Ally of Enemy" as defined by the Act and Proclamation above named. (See Section 3-a of the Trading with the Enemy Act.)

The peculiar technical definitions of "enemy" and "ally of enemy", "person" and "trade" in the Act should be examined

⁹⁵ File No. 763.72112/6464a; For. Rel., 1918, supp. 1, p. 1042.

carefully in order to determine the qualifications for listing. The scope of the definition of "enemy" has been extended by the proclamations of the President dated February 5th and May 31st, 1918.

The first proclamation applies only to aliens of German or Austro-Hungarian nationality or nativity interned in the custody of the War Department. The second relates to certain specified classes of citizens or subjects of nations with which the United States is at war and should be carefully studied by you.

Supplements to the enemy trading list are published every other Friday and the changes are telegraphed in advance to the United States missions in the respective countries covered by the changes.

II. THE CONFIDENTIAL ENEMY TRADING LIST

For various reasons it may be undesirable to include in the Enemy Trading List a certain name which, according to the technical rules of Section I hereof, would ordinarily be placed on the List. For instance, the person or firm may be so connected officially with a neutral government as to make it inexpedient to publish the name, although it is clear that exports and other facilities should be denied; or the person may not be engaged in trade and no collateral object would be gained by publishing the name which could not be accomplished as well by other administrative measures; or the person or firm may be of such small importance that to publish the name would tend to unnecessarily increase the bulk of the list without compensating advantages. To cover such cases and to prevent the published List from acquiring unwieldy proportions, all names eligible for listing which it is not expedient to publish for any reason, are included in a Confidential Enemy Trading List. The same technical rules of inclusion apply to this List as to the published List and the same procedure should be followed in recommending changes therein.

In deciding whether to recommend a name for the published or confidential List two main considerations should be kept in view:

1. The value of the notice of publication to American, Allied and Neutral merchants, shippers, bankers, etc., who are seeking to conform to the laws, regulations, and wishes of the United States in Enemy Trade matters and

2. The collateral effects of publication on the business, social, and financial affairs of the person or association in question and on public opinion.

III. THE CLOAK LIST

This is a special list confined to "cover names" used only to cloak enemy trade transactions, which are either fictitious or represent straw men not personally engaged in international trade and of no financial importance. This Cloak List for Latin America and Spain

is henceforth to be compiled by the United States War Trade Board for use by the governments of Great Britain, France, and Italy as well. The understanding under which the War Trade Board controls this list necessitates that it be confined strictly within the limits described above in Section I. No names of established firms or independent businesses should be included in the Cloak List. On the other hand, Enemy Trade "cover names", including names of employees and friends used as cloaks, should not be proposed for the Enemy Trading List but should be proposed for the Cloak List.

The Cloak List is confidential and is not widely distributed. There are two main reasons for this:

1. If the Cloak List were made public, it would become obsolete immediately for new cloaks would be used.

2. Often the cover names are those of individuals who have not consented to the cloak use and who would be affected unjustly and unnecessarily by inclusion in the published list.

IV. PURPOSES OF ENEMY TRADE LISTING AND CONSIDERATIONS APPLICABLE THERETO

Before proposing additions to the Enemy Trading Lists, published or confidential, two main questions should be considered and answered affirmatively.

1. Are there facts in the case which constitute sufficient grounds for listing under Section I hereof?

2. Will any definite advantage be promoted by listing which will outweigh possible disadvantages?

Listing is not an outlet for vindictiveness, nor a device for punishment but a measure for accomplishing certain practical purposes involved in the legislation of the United States to prevent trading with the enemy. No good would be accomplished by listing a quiet, inoffensive German merely because he is a German, even though he expresses a belief in the justice of the German cause; and in many cases considerable harm might arise from indiscriminate listing.

Furthermore Enemy nationality alone is not sufficient to justify listing under Section I hereof, although it is under the French, British and Italian laws. On the other hand, if for instance, the enemy national is an enemy agent or agency, actively engaged in propaganda in aid of the Enemy cause, is fomenting dissension between the Associated peoples and neutrals, is backed by enemy capital, is controlled from Enemy territory, is trading directly or indirectly for the benefit of an "enemy" or "ally of enemy" or is furthering trade with enemy countries, with listed persons and associations or with persons and associations who should be listed as "enemies" or "allies of enemies", he should be proposed for the Lists.

Enemy nationality is an important cumulative consideration in favor of listing although it is not sufficient alone. If there are technical reasons for listing a person the fact that he is a German generally will be decisive in favor of listing, whereas if he is a neutral the taking of assurances sworn to before a proper official that he has discontinued his enemy trade connections and will not resume them in the future often is preferable to listing immediately.

It should be noted that public opinion in a neutral country is important. This consideration applies with peculiar force to the listing of newspapers and other organs of public opinion. The principle of freedom of the press should not be ignored. It is undesirable to list newspapers merely because they favor the German cause. If, however, they are backed by German capital, or are subsidized by the German government or German propagandist organizations or are otherwise controlled by enemy interests they should be nominated for listing.

In proposing additions to the Lists, the specific grounds on which the recommendation is based should be stated since before listing a name the War Trade Board must have a justifiable reason within the scope of Section I hereof. It also is of great assistance to the Board to know the nationality of the nominees and any disadvantages which might result from listing, peculiar to the circumstances of the case.

In recommending partnerships for the Lists, both the partnership name and the names and nationality of the individual partners should be given. In Latin American countries these matters appear in the public records. In recommending a corporation for listing, its nationality, and the names, residence and nationality of its officers, shareholders and others who control its activities and interests should be given as far as possible.

In recommendations by telegraph, the specific grounds and nationality can be briefly indicated. A fuller account should always follow by mail.

V. THE WHITE LIST

While no White List is compiled by the War Trade Board in the sense that trading between the United States and foreign countries is confined to the houses upon such a list, the War Trade Board is endeavoring to furnish American exporters and importers upon their request, with information concerning trustworthy houses abroad from the standpoint of the laws of the United States to prevent trading with the enemy. For convenience this list is called in this circular a White List.

The White List includes names of persons and firms and associations who are approved affirmatively as clearly unobjectionable and proper connections for American trade. No names which are doubt-

ful should be included in this category, for they will be recommended unqualifiedly to American shippers and merchants.

In reporting a firm for inclusion in the White List you should only endorse those of whose trustworthiness you are satisfied and who in your opinion furnish a proper connection for American trade, bearing in mind not only the absence of present enemy activities and connections but also their value to American trade for the future. These firms will be recommended by the War Trade Board to American houses without qualifications. While the War Trade Board does not purpose to endorse the financial standing of any such house, it is obviously desirable that it should not recommend irresponsible persons or those with a questionable business reputation.

I am [etc.]

For the Secretary of State:

WILLIAM PHILLIPS

384

The Secretary of State to Diplomatic and Consular Officers in Latin American Countries ⁹⁸

No. 619

General Instruction
Consular

WASHINGTON, August 30, 1918.

GENTLEMEN: In the administration of the laws of the United States to prevent trading with the enemy it early became obvious that no such measure could accomplish its purpose without full and frank cooperation on the part of the Governments associated in the war against the Central Powers and that very serious dangers were inherent in the friction and misunderstandings which might be caused by lack of cooperation. The fundamental facts of international trade and competition compelled some agreement so that, on the one hand, enemy trade, denied facilities from one of the associated countries might not nullify such action by obtaining supplies from another of these countries and, on the other hand, the administrative restrictions of one of the associated countries might not operate inadvertently and unjustly against the trade interests of the others.

The general principle of coordination has met with cordial acceptance by the United States, Great Britain, France, and Italy and now is under consideration by Japan. The full plan includes the following elements:

I. Assimilation of Enemy Trading Lists and synchronized publication of changes.

⁹⁸ File No. 763.72112/9929b; For. Rel., 1918, supp. 1, p. 1046.

- II. Conferences precedent to issuance of Enemy Trading Licenses.
- III. Reciprocal adjustment of administrative restrictions on trade due to the alleged enemy character, activities, or connections of the persons involved in it.
- IV. Full and frank interchange of information on enemy trade matters.

The United States and Great Britain are in full accord on all four of these elements. France has agreed to the first, second, and fourth, and has the third under consideration. Italy has agreed to the first and fourth and has the other two under consideration.

I. ASSIMILATION OF ENEMY TRADING LISTS

The assimilation of the published Enemy Trading Lists of Great Britain, France, and the United States is almost completed. It is expected that the Italian List soon will be brought into accord. The confidential Lists now are in process of assimilation. A procedure has been devised for accomplishing and maintaining uniformity, which may be outlined briefly, as follows:

1. Conferences are to be held regularly by representatives of each of the four Governments in each country covered by the Lists, at which names suggested for addition to or removal from the respective published and confidential Lists will be discussed in the light of all the available evidence. The resulting determinations with specific reasons will be transmitted to each Foreign Office respectively and, in the case of the countries of Latin America, simultaneously to the respective Embassies or High Commissions in Washington. If there is a difference of view after conference, the United States representative will transmit to Washington his own opinion with specific reasons therefor and the varying opinions of his colleagues. No recommendations for changes in the published or confidential Enemy Trading List should be made without such previous conference of the associated representatives, if possible.

2. The recommendations for changes in the Lists for Latin America are reviewed in Washington by representatives of the four Associated Governments. Those for Spain, Switzerland, Greece and Morocco are reviewed in Paris, and those for the rest of neutral Europe in London.

3. The changes in the published lists agreed on by the reviewing committees are published on the same date by the four Governments. Agreed changes in the Confidential Lists also are put into operation at the same time.

The efficient working of this plan may involve in practice two different conferences in the country in which the subject person or association is to be listed. The consular or other representatives of the four Associated Governments in the locality where the firm resides or does business should first confer, exchange information, and discuss the case. They should then communicate the result to their

respective Legations and Embassies, between which a further conference will be held. The result of this second conference as well as the recommendations of the local representatives will be transmitted by the Ministers to Washington, London, Paris, and Rome respectively, and in the case of Latin American countries by the French, British and Italian Ministers to their respective Embassies or High Commission in Washington. The Department of State may, at some posts, designate a Consulate General or Consulate to be in charge of this work in which case Consuls will send their reports to the consular office so designated.

This procedure does not apply to the Cloak List for Latin America and Spain which is to be compiled, printed and distributed by the United States War Trade Board. The limited scope of the Cloak List is defined by Circular Instruction of even date with this, describing the various United States Enemy Trading Lists. No name of an established firm or person engaged in international trade should be recommended for the Cloak List. It is to be confined strictly to enemy trade cover names.

Recommendations for changes in the Cloak List may be made directly to Washington by consuls and War Trade Board representatives, as well as by the diplomatic missions. Discussion of Cloak List recommendations with the representatives of the other three Governments should be held and concurrence or non-concurrence should be reported, but expedition is necessary in the matter of listing these cover names. The Cloak List is a rapidly fluctuating one, because new devices constantly are invented to take the place of those which are worn out and discarded. To defeat these devices, it is necessary to keep ahead of them. Therefore rapidity of change is the essence of an effective Cloak List.

II. CONFERENCES PRECEDENT TO ISSUANCE OF ENEMY TRADE LICENSES

The agreement on Enemy Trading Licenses provides that, except in certain classes of cases, no such license shall be issued by any of the agreeing Governments without previous discussion by their representatives in Washington, if the listed or enemy person or association is located in Latin America; in Paris, if located in Spain, Switzerland, Greece, or Morocco; in London if located elsewhere in neutral Europe or in Portugal.

III. ADJUSTMENT OF ADMINISTRATIVE RESTRICTIONS TO AVOID FRICTION BETWEEN TRADE INTERESTS OF THE ASSOCIATED GOVERNMENTS

Although assimilation of the various Enemy Trading Lists is to be accomplished as far as possible, there are and will be cases on which the associated Governments cannot agree. Each will then take its

own course as to listing. Furthermore facilities may be denied a firm by one or more of the Associated Governments before the process of coordinated listing is completed. The scope and purpose of this phase of the coordination plan can be indicated best by illustration. It is obvious that if for any reason trade with a firm in Bolivia, for instance, should be refused United States facilities and not refused British facilities, British trade conceivably might be interfered with by American authorities at a transshipment port in the United States or elsewhere, or by American shipping refusing to carry the goods. Similarly American trade with firms listed by the British Government and regarded as unobjectionable by the American Government might be hampered by British restrictions enforced by their consular authorities and by British control over shipping and bunkering facilities. The agreement to which the British and United States Governments have come provides that trade between the United States and a third country which is unobjectionable under United States Enemy trade regulations shall not be interfered with by British regulations or authorities merely because the consignor or consignee or their connections are objectionable from the viewpoint of the British Administration; and that the United States will act reciprocally with respect to similar British trade. Furthermore it is understood that British authorities without consent of the United States Government will not interfere directly with trade between the United States and third countries or with American firms or their agents in those countries even though there is evidence that trade is being carried on in violation of American restrictions and British policies. In such cases the British authorities will communicate the facts to the proper American representatives who will take appropriate action. The United States will reciprocate in similar cases.

IV. INTERCHANGE OF INFORMATION ON ENEMY TRADE MATTERS

Full and successful cooperation must rest on common information and understanding of the facts. Therefore it is important that all the Associated representatives in the different countries who have to do with these enemy trade matters should establish an effective system of a continuous and expeditious exchange of information and views on current cases and transactions. Even when a change in the coordinated Enemy Trading Lists is not involved, it is important that American representatives should have the information and views of their Associated Colleagues on the case before making a report. If such interchange of views and evidence is made a general rule, much of the divergence in treatment of firms not listed in coordination by the four Governments can be avoided and opin-

ions reported to Washington will tend to possess a higher degree of assured accuracy and permanency.

If efficient, cordial and frank cooperation is established throughout the different countries, the reports on the same case to each of the four Governments should be substantially alike except where unavoidable divergence of judgment arises. Thus the opportunities for common action will be increased. It is desired that the United States representatives make a special effort to establish the custom of reciprocal conferences and interchange of information on all enemy trade matters not peculiarly of a strictly confidential nature and to bring about concordance in enemy trade reports to the respective home Governments.

It is very desirable that the utmost good feeling, frankness and concord should be established between the representatives of the Associated Governments in the various countries on these Enemy Trade Matters. Harmony is essential to the proper working of the plan arranged, and in lack of harmony and variances in enemy trade restrictions as between the various Associated Governments lurk very grave dangers. Where misunderstandings exist they should be cleared up. Differences of opinion and friction caused by natural trade rivalries should be reconciled and adjusted. By proper and skilful cooperation on the part of the various representatives it is believed that the common interests of all the countries will be served without harm to the separate commercial interests of any, and it is only by such cooperation that this result can be reached.

Substantial intentional infringements of the coordination agreement of course should be reported. If it is found that any commercial or consular agents or representatives of business firms are making improper use of their opportunities to the detriment of American interests, steps will be taken at once to rectify the situation. Captious complaints should be avoided, however, and the broader purposes of the policy of coordination should be kept steadily in view.

When the process of assimilation of the Lists is completed the lists will be, with slight variances, in practical effect, though not technically or physically, a single Allied List. If it is thought advisable you may discreetly announce to the public this fact and also the fact that changes in the List are made after conferences between representatives of the four Associated Governments and by concerted action.

I am [etc.]

For the Secretary of State:

WILLIAM PHILLIPS

385

*The Secretary of State to the Ambassador in Great Britain (Page)*⁹⁷

[Telegram]

WASHINGTON, August 31, 1918—5 p. m.

1121. For Sheldon [from War Trade Board]:

No. 1133. Frothingham. Embassy's 1310 August 23, 11 a. m. Your 1298. Advantage conference plan obvious. Unified policy reference granting enemy trade licenses absolutely necessary and only possible under this plan. Unified lists accomplish nothing without complementary unified action in the matter licenses. Otherwise same undesirable results follow inconsistent granting licenses as followed inconsistent lists. Under plan mere exchange licenses action taken prior to possibility comment and recommendation by other governments. Cases continually arising of inconsistent policy resulting in complete loss effect enemy trade restrictions. War Trade Board receives from agents northern neutral countries continually complaints detrimental results to United States from lax British policy reference persons on confidential list and rigid United States policy. Similarly in South America United States has licensed in past certain transactions where such action nullified policy British and French. Had United States been informed such policy existed licenses would not have been granted. For maximum efficiency absolute cooperation needed. This only obtainable through discussion prior granting license. Mere exchange after granting futile. Must impress upon you War Trade Board's conviction necessity license conference. At suggestion British Government negotiations for complete agreement being carried on in Washington with representatives British French and Italian Governments here. Will keep you advised action taken. Meanwhile very important follow to letter instructions Department's 951 August 24, 5 p. m. our 1100. Copy letter from War Trade Board to British representative in Washington insisting necessity cooperation reference enemy trade licenses in cases persons on confidential list as well as published list being sent you by dispatch. Letter dispatched by British representative to London office with recommendation plan be fully adopted. You will assist by strongly urging to British authorities points taken in that letter.

LANSING

386

*The Secretary of State to Diplomatic Officers in Latin American Countries*⁹⁸

[Telegram]

WASHINGTON, September 3, 1918—6 p. m.

It has been decided that Washington Allied Conference on changes in Enemy Trading Lists will act hereafter on telegraphic reports from

⁹⁷ File No. 763.72112/9871; For. Rel., 1918, supp. 1, p. 1051.

⁹⁸ File No. 763.72112A/3281a; For. Rel., 1918, supp. 1, p. 1052.

Sent also, on the same date, to the Consul at Georgetown; on that telegram and on the one sent to the Minister in Salvador the last sentence was omitted.

American representatives in Allied conferences in Latin American countries provided those reports state unanimous recommendations of British, French, Italian and United States representatives and sufficient specific reasons. Avoid phrase "Allied colleagues". Use phrase "British French and Italian colleagues". If disagreement is reported by American reports of other three representatives will be awaited before action. Accuracy and speed in reporting results of local conferences therefore desirable. Conclusions of all four representatives and reasons should be given in each case. Fuller report by mail should follow telegraphic reports. Repeat to consuls.

LANSING

387

*The Secretary of State to the Ambassador in France (Sharp)*⁹⁹

[Telegram]

WASHINGTON, September 4, 1918—3 p. m.

5506. For [Mc]fadden [from War Trade Board].

No. 287. Supplementing Department's 4873 [4872]. Our 163, July 2. Department's 5427. Our 266, August 24, 7 p. m. With reference to the enemy trade license conference and the exceptions which the French Government desire to make to the classes of cases to be submitted to the committee please communicate the following to the proper French authorities. The aim and function of such a committee according to the understanding of the United States War Trade Board is to furnish a method whereby insofar as possible unity of action between the allied governments in the administration of their several restrictions on enemy trade may be obtained. War Trade Board is convinced that such unity of action is essential to the exercise of the maximum strength of the allied enemy trade restrictions and to the securing of the maximum results from such restrictions. To attain this it is vital that prior to action taken by any one of the allied governments in permitting any transaction which through the enemy character or affiliation of some person connected therewith would normally be restricted such case be discussed by representatives of the allied governments in conference and the views of the other governments obtained. To be successful the plan must be thorough and involve all cases except such as through mutual agreement are very unimportant or in which it is agreed that the action will be always the same. By this course inconsistent acts are avoided. Opportunity is taken away from the enemy to manufacture damaging propaganda as they have in the past on the basis of actions of one allied government in enemy trade matters in apparent contravention of the policy of another allied government. Such cases furnish opportunities to the enemy to reiterate their claims of lack of understanding and unity among the allies. The effect upon the morale of the enemy of such ingenious claims supported apparently by facts is obvious. The further advantages which naturally follow

⁹⁹ File No. 763.72112/9730; For. Rel., 1918, supp. 1, p. 1052.

from mutual discussion of such cases are many for example the introduction of new points of view new facts bearing on the case and most important the obviating of all chance of misunderstanding.

With reference to the exceptions which the French Government desire to make from reference to conference.

1st. Cases in which one of the allied governments proposes to undertake a transaction or transactions in which a person of enemy character or affiliation is involved. It is fully appreciated that in such cases the Government concerned would not undertake such an action unless the public necessity was great. Nevertheless it is felt that a submission of the facts to mutual conference is desirable for the sake of avoiding all possible misunderstandings and for the sake of an exchange of information on the subject which may in many cases uncover facts which will remove the necessity for the transaction.

2d. With reference to the proposal of the French Government to except from the conference consideration of cases where goods pass in transit through one of the allied territories.

The War Trade Board recognizes the fact that such cases often involve questions of a political nature but nevertheless feels that such cases should be presented to the committee in order that through the committee the other allied governments may be informed that political reasons necessitate the action and that the committee as a coordinating body may fully function in the matter of preventing misunderstandings. The War Trade Board does not feel that the objection that a different branch of the French Executive administers such cases is controlling. It would seem that this difficulty could be obviated by having the proper department of the French Government instruct the French delegate to the committee as to the considerations controlling such cases. It is essentially desirable that the French authorities agree with the War Trade Board in this matter so that in unison we may urge upon the other governments the desirability of complete cooperation. The War Trade Board therefore desires to urge that the French Government accept in full the proposition of the War Trade Board as understood and intended by that Board originally to wit that with the exceptions outlined in Department's 4873 [4872], War Trade Board's 163 July 2 and dispatch of July 1st and communicated by you to the French Government all cases in which one of the governments participating in the conference purposes to permit a transaction which would normally not be permitted by that government because of the enemy character or affiliations of a person involved in such transaction be submitted for discussion and recommendation to a committee of representatives of the French English Italian and United States Governments sitting in London Paris or Washington under the scheme outlined in Departments 4873 [4872], War Trade Board's 163 July 2.

LANSING

388

*The Secretary of State to the Ambassador in Great Britain (Page)*¹

[Telegram]

WASHINGTON, September 4, 1918—7 p. m.

1185. For Sheldon [from War Trade Board]: No. 1160 Frothingham. What progress has been made in matter urging adoption effective Enemy Trade restrictions by Portugal? Portuguese in certain South American countries are cloaking Enemy trade. Our representatives advise only effective remedy is adoption of full enemy trade restrictions by Portugal. This should be discussed with British in furtherance of early decision concerning publishing Enemy Trading List for Portugal which was subject of communications from you several months ago. French representative, Washington, has been instructed by his government to ask cooperation United States in obtaining British assistance urging Portugal to act immediately. Await your advice as to situation. Fuller.

LANSING

389

*The Secretary of State to the Ambassador in Great Britain (Page)*²

[Telegram]

WASHINGTON, September 5, 1918—4 p. m.

1196. Your 1589, September 3, 5 p. m.

Department has today cabled Legation at Stockholm as follows:

"You are instructed to present the following note to the Government to which you are accredited.

'The United States Government is reliably informed that the German Government now is attempting to control neutral shipping generally through a new device improperly termed a "safe conduct", which constitutes in fact but a threat of illegal condemnation or destruction unless German control is accepted. Such control would extend to Germany's supervision of the personnel of passengers and crew, the character and consignment of cargo, mails, etc., and the movements of the vessel itself. The United States Government observes that such control may operate to deprive vessels accepting the same of their neutral character and the United States Government accordingly reserves the right to deal with any vessel which has subjected itself to enemy control as the circumstances in each case may warrant. The attention of the Royal Swedish Government is invited by the Government of the United States to the fact that

¹ File No. 763.72112/10027a; For. Rel., 1918, supp. 1, p. 1054.

² File No. 763.72112 Sa/63b; For. Rel., 1918, supp. 1, p. 1103.

Similar telegrams, except as noted in the last paragraph, sent on the same date to Denmark (No. 1065), the Netherlands (No. 2006), Norway (No. 452), and Spain (No. 1514). (File Nos. 763.72112 Sa/58a, 63a.)

apart from the general results of the acceptance of such control affecting the status of Swedish shipping, the acceptance in the specific case of Sweden would be contrary to the Swedish agreement signed on May 29 last in so far as it would tend to nullify its effect and to impede the exportation to the Associated Governments of manufactures from or with the aid of materials whose importation through the blockade is permitted for the specific purpose of the return of the finished article.³

"Department is informed that Governments of Great Britain, France and Italy are instructing their Ministers to present similar notes. You will therefore confer with your Allied colleagues with a view to arranging a simultaneous presentation of the notes. No publicity should be given to the form or purport of the above communication."

Missions at Madrid, Christiana, Copenhagen and The Hague will receive text of above note minus reference to violation of Swedish agreement together with authorization to read it to Minister of Foreign Affairs after consultation with Allied representatives so as to secure, if possible, concurrent action. In case of Spain exercise of authorization is subject to discretion of Ambassador. All above named missions have been instructed that note is not to receive any publicity.

LANSING

390

*The Secretary of State to the Chargé in the Netherlands (Kirk)*³

[Telegram]

WASHINGTON, September 13, 1918—7 p. m.

2047. You are authorized to deliver to the Foreign Office a note of the following tenor:

"As has often been stated previously by the Government of the United States that Government is prepared to renew discussions for the conclusion of an understanding under which the Government of the United States will feel that it can properly offer facilities for the resumption of imports to the Netherlands to meet the requirements of her people and to afford relief to her industries and if the Netherlands Government determines to appoint a representative having full power to conduct such discussions, the Government of the United States, acting in conjunction with its associates in the war, will welcome such a delegate and be pleased to enter into discussion with him. While the Government of the United States cannot agree to the export to the Central Powers of articles which are of prime necessity or of military importance to the enemy, it is recognized by the Government of the United States that the Netherlands are in certain difficulty, owing to the fact that they are depend-

³ File No. 656.119/763a; For. Rel., 1918, supp. 1, p. 1530.

ent on Germany for certain materials. The Government of the United States is prepared to consider suggestions as to any scheme under which such dependence could be reduced."

It is understood that the British Minister has already been instructed by the Foreign Office to deliver a substantially similar note and it is desired if possible that the delivery of these notes be contemporaneous.

LANSING

391

*The Ambassador in Great Britain (Page) to the Secretary of State*⁴

[Telegram]

LONDON, September 16, 1918—3 p. m.

[Received 6.42 p. m.]

1906. War Trade Board [from Frothingham]:

"No. 1441. Supplementing our 1379, September 5. Inter-allied review committee submits following proposal, with which British Foreign Office agrees, for views of Associated Governments. Portuguese Government should be informed that: (a) Published Black Lists for Portugal (British Statutory List) would be withdrawn and (b) American Enemy Trade List for Portugal should not be instituted provided:

- (1) Portugal will adopt a published Black List for South America or in some other form give effective support to Black List policy in South America.
- (2) Liquidation of German firms in Portugal is accelerated to such a point as to satisfy four Allied representatives in Lisbon that this policy is being effectively pursued.
- (3) Any other conditions in this connection considered possible and desirable by Allied Minister in Lisbon be met.

At the same time it should be made clear to Portugal that in the event of withdrawal of published Black Lists Confidential Black lists for Portugal could still be used by Associated governments to prevent any inequality of treatment to subjects of those of the allies whose laws prohibit trade with enemy nationals irrespective of the existence of published black lists. For example French law prohibits any Frenchman from trade with a German whether or not that German is on a published list. Referring condition (1) above Portuguese adoption of publishing [*published*] black list is confined to South America account probability of serious political objection to adoption such a list for Spain. On the other hand with reference to condition (3), it might be possible and desirable to press for additional restrictions on trade across Spanish frontier in view of Portugal's fight for withdrawal of stat[utory] list. The notice of not

⁴ File No. 763.72112/10139; For. Rel., 1918, supp. 1, p. 1060.

This telegram was replied to in part on Sept. 26, 1918, as follows: "Embassy's 1906, September 16, your 1441. Action therein proposed is approved."

publishing an American E.T.L. for Portugal contains an implication that may have greatest single effect. Please advise whether you concur in submission of joint communication as above by British, French, Italian and American representatives at Lisbon. Frothingham.

PAGE

392

*Agreement between the War Trade Board of the United States and the Merchants' Guild of Copenhagen and the Danish Chamber of Commerce, September 18, 1918*⁵

The War Trade Board, an administrative agency empowered by executive order of the President to license exports from the United States, hereinafter designated as the Board, and the Merchants' Guild of Copenhagen and the Danish Chamber of Manufacturers, hereafter jointly designated as the Associations, have considered the commercial relations between the United States and Denmark, during the continuance of the present war, for which period this agreement shall continue, subject to termination at the end of twelve months by the Associations upon their giving three months prior notice in writing of their intention to terminate the same.

The Board and the Associations have agreed as follows:

ARTICLE I

1. The powers of the Board are administrative and pertain wholly to the Nation's domestic or internal affairs.

2. In consideration of the stipulations hereinafter set forth, the Board agrees to license the export, or facilitate the obtaining, as the case may be, of the commodities enumerated in the schedules hereto annexed and made a part hereof.

3. If sufficient quantities of any of said commodities are not deemed available for exportation from the United States at the time when they are required, export licenses shall be granted for as great a part thereof as are available, compatible with the rules and regulations set forth in this agreement. And in such cases if there are in the United States commodities that can be spared which are capable of use as substitutes for the commodities named in the schedules, licenses will be granted for their export. And the War Trade Board will render such assistance as lies in its power to enable said associations to secure elsewhere the commodities enumerated in said schedules.

⁵ For. Rel., 1918, supp. 1, p. 1339.

The texts of this and the following agreement and letter are those of the War Trade Board's confidential print. The final draft of each in the War Trade Board files bears the notation "approved" with the signatures of R. S. Hudson of the British Embassy and Grimpel of the French High Commission.

And said Board will grant licenses for bunker fuel and ships stores under their rules governing the same to vessels transporting the same commodities to Denmark from the United States or other countries.

Vessels carrying supplies to Denmark in compliance with the present agreement shall not in any way be hindered, held or seized by the United States or the Governments associated with it in this war, subject however to the exercise by the Allies of the right of visit and search.

4. The schedules annexed hereto are intended to set forth an estimate of Denmark's actual needs. In the event Denmark's needs exceed such estimates, requests for additional quantities of the commodities enumerated in said schedules with appropriate data in support of such requests may be presented for the consideration of the War Trade Board, but nothing herein contained is intended as an assurance that licenses will be granted for such increased quantities.

Denmark's genuine requirements for home consumption of articles not mentioned in the schedules attached hereto will also, without present commitment, be taken into favorable consideration by the War Trade Board.

ARTICLE II

In consideration of the granting of such export and bunker and ship stores licenses for the exportation from the United States and other countries to Denmark of the commodities enumerated in the annexed schedules, the Associations agree to the following stipulations:

1. The quantities of the several commodities set forth in the schedules annexed, for which licenses may be granted, are based upon the total estimated import needs of Denmark (exclusive of imports from the Central Powers, provided they originated in the territory of said Powers) for each twelve months period during the continuance hereof, and, since these commodities are to be withdrawn from already restricted world supplies, it is expressly understood that all supplies Denmark is enabled to import from all other countries (except the Central Powers as above) shall, as and when imported, be deducted from the quantities of the several commodities enumerated in said schedules. It is understood with respect to commodities in the schedule imported from Finland or Russia, that each two tons shall be counted upon as only the equivalent of one ton imported from elsewhere.

The commodities described in the said annexed schedules are to be imported for consumption in Denmark; and the quantities thereof which shall be licensed (notwithstanding the aggregate quantities set forth in the schedules annexed) shall at all times be limited by

actual internal requirements of Denmark, with due regard to existing stocks and to the importation into Denmark from countries where the license of the Board is not required, other than the Central Powers as aforesaid, of like commodities or commodities capable of use as substitutes for those described in the annexed schedules.

No articles imported into Denmark under the provisions hereof shall be directly or indirectly exported from Denmark to the Central Powers nor shall any articles released by such importation be exported from Denmark to the Central Powers.

2. No articles shall be exported by Denmark to any other neutral country for exportation directly or indirectly to Germany or her allies, nor shall any articles be exported to any other neutral country in any case where such exportation will directly or indirectly serve to release for export to Germany or her allies any article or commodity in such neutral country of whatever origin.

3. The Associations will furnish the Board with guarantees similar to those which they have undertaken to issue to the British Government under the Anglo-Danish Trade Agreement of November 19, 1915, and will use every effort within their power in regard to the effective enforcement of all export prohibitions, regulations and restrictions.

4. The right is reserved to the War Trade Board to determine the distribution of the allotments for export from the United States both as to time and port, but due consideration shall be given to any representations of the Associations that may from time to time be made in regard thereto. And the Associations will from time to time freely consult with the Board as to the oversea sources from which the articles which are to be imported into Denmark shall be obtained.

5. No commodities which the United States or its Associates in the war will furnish to Denmark shall be used in the production of any commodity to be exported to the Central Powers. If any commodity or any part thereof imported under this agreement by Denmark shall be exported or re-exported to any neutral country such commodities shall be exported or re-exported on the express condition that they shall not be exported or re-exported by such neutral country to the Central Powers, and the Associations undertake to take such steps as will effectively prevent such re-export to the Central Powers. With respect to such non re-export, the following guarantees will be satisfactory to the Board until written or telegraphic notice to the contrary:

For Switzerland—Agreement of the S[ociété] S[uisse de]
S[urveillance Economique]

For Holland—Agreement of the N[etherlands] O[versea]
T[rust]

For Sweden—Handels Kommission certificate or the guarantee of such association or associations as may be at the time of such exports acting under the agreement between Sweden and the Associated Governments.

For Norway—Such association or associations as may be acting at the time of such export under the United States-Norwegian Agreement.

6. It is further guaranteed by the Associations that lubricating oils, kerosene and gasolene received from the United States shall not be employed in factories or in manufacturing plants of any kind operating to produce commodities for export to Germany except as follows:

To avoid inconvenience which will result from the literal enforcement of the preceding paragraphs in regard to the use of lubricating oil, kerosene and gasolene in the catching of fish for whose export to the Central Powers provision is made in the note of the Danish Minister of even date herewith, it is stipulated that said prohibitions shall not be applicable to exports of the quantity of fish provision for the export of which is made in said note, *provided* that the Central Powers shall furnish in advance of the export of the fish intended for said Powers oil in the ratio of about one ton for each ten tons of fish so to be exported.

To avoid like inconvenience in regard to the oil, kerosene and gasolene employed in the manufacture of butter and bacon in dairies and pig slaughteries, the product of which shall be in part supplied to Germany and in part to the other Scandinavian countries and Great Britain, it is agreed that the prohibition contained in the note of the Danish Minister aforesaid shall not limit the right to use oil, kerosene and gasolene obtained from the United States and her associates in Danish dairies and pig slaughteries in which only dairy products and pork products respectively are produced.

7. The Associations agree not to issue any import guarantee to or for any person or firm or corporation on the Statutory or Enemy Trade Lists, and the Associations agree with respect to persons, firms or corporations, concerning whom they receive notice that they are suspected of enemy affiliations, to grant only temporary guarantees pending examinations of proofs under the rules now governing under the Anglo-Danish Agreement.

8. The Associations agree to furnish or procure the furnishing of the same guarantees as under the Anglo-Danish Agreement with respect to all commodities imported into Denmark from Norway and/or Sweden with respect to their non re-export to the Central Powers, and the Associations further agree that no articles shall be directly or indirectly released by the importation of commodities imported from Sweden and/or Norway for exportation to the Central Powers.

ARTICLE III

1. It is understood and agreed that the persons, firms and corporations who may export to the Central Powers commodities in the quantities in the note of even date herewith from the Danish Minister to the Chairman of the War Trade Board provided for shall not, because of such export by them, be deemed enemies or be discriminated against by the United States or the nations associated with the United States in the war.

ARTICLE IV

Nothing herein contained shall be construed as in any manner modifying or changing the terms or conditions of any arrangements or agreements between the Governments of Denmark and France, Italy or Great Britain providing for the prohibition or restriction of exports from Denmark, nor the terms or conditions of any arrangement or agreement between the Governments of Denmark and France, Italy or Great Britain, or the terms or conditions of any guarantees given to or agreement made with those governments by Danish citizens or firms which either is now in force or which having been in abeyance owing to the suspension of imports into Denmark, may be revived when such imports recommence under the terms of this agreement. If any agreement by the terms of which Denmark is receiving from any country associated with the United States in the war all or any part of any commodity needs provided for in the annexed schedules, shall, during the continuance of this agreement, be denounced or terminated at the instance of the Danish Government, then the quantity of any commodity which Denmark would have been entitled to receive had she permitted the agreement so terminated to continue in force shall be deducted from the quantities of such commodities set forth in the annexed schedules.

WAR TRADE BOARD,

By VANCE C. McCORMICK, *Chairman*

MERCHANTS' GUILD OF COPENHAGEN,
and

DANISH CHAMBER OF MANUFACTURERS,

By HARALD NIELSEN

Dated: 18 September, 1918.

ANNUAL QUANTITIES OF SUPPLIES FOR DENMARK UNDER GENERAL
AGREEMENT WITH THE UNITED STATES

FOODSTUFFS

SCHEDULE A

Commodity	Quantities in metric tons	Notes
Corn Starch.	1, 000	Conditional upon no cereal or cereal products exports to Central Powers—if further quantity would be agreed conditional upon an equal quantity of cereals being exported to approved destinations.
Rice	4, 000	
Sago and Tapioca and Products . .	3, 000	Ditto. To be obtained in Holland.
Pork Casings	300	
Cocoanut, desiccated	150	Conditional upon no fruit or berries being exported to Central Powers in any form, Ditto. Ditto. Subject to examination of existing stocks and reported recent imports, and as to 1,000 tons, subject to negotiations and the release of detained cocoa. To be obtained in Holland but failing this to be reconsidered as to point of origin. Ditto.
Apricot and Peach kernels	100	
Other nuts and kernels	500	
Glucose	250	
Apples, Bananas, Citrus Fruits . .	7, 000	
Dried fruits	3, 000	
Canned fruits	200	
Coffee	16, 000	
Tea	600	
Cocoa	2, 000	
Spices, not including Cumin	500	Ditto.
Pepper	140	
Stearine	600	
Total	39, 340	

FUELS AND OILS OTHER THAN EDIBLE

SCHEDULE B

Kerosene, Gasoline, Lubricating Oils and Greases, Crude Petroleum and Dark Refuses.	80, 000	Including not over 7,000 tons lubricating oils.
Castor Oil (medicinal)	10	Equivalent in linseed provided the cake resulting therefrom is immediately reexported to approved destinations, and in any case not more than one quarter of annual quantity of seed and/or cake shall be in Denmark.
Linseed Oil	6, 000	
Paraffine	400	
Soaps and Powders	400	
Total	86, 810	

ANNUAL QUANTITIES OF SUPPLIES FOR DENMARK, ETC.—Continued
METALS, MACHINERY AND INSTRUMENTS

SCHEDULE C

Commodity	Quantities in metric tons	Notes
Copper and manufactures of (including brass).	3, 500	
Brass wire	34	
Brass wire screens for paper making.	20	
Brass screws	36	
Various instruments for technical, scientific and nautical purposes (if approved).		Quantity to be in accordance with actual Danish requirements for home consumption.
Iron and steel products, including Shipbuilding material.	150, 000	Shipbuilding material to be subject to special agreement.
Electric Lamps	70	
Motors, Automobiles and parts (excluding tires).		Quantity to be in accordance with actual Danish requirements for home consumption.
Electrical machinery		Ditto.
Bicycles and Bicycle parts (excluding tires).		Ditto.
Typewriters, Accounting Machines, office equipment supplies.		Ditto.
Sundry machinery and parts (if approved).		Ditto.
Manganese Dioxide	600	
Nickel and manufactures	14	
Antimony	25	
Hand Tools of various kinds		Ditto.
Aluminum and manufactures	132	
Lead and manufactures	3, 000	
Tin and Tin Plate		Quantity to be later agreed.
Zinc sheets	300	
Zinc and manufactures	2, 700	
Silver and manufactures	14	
Hardware		Quantity to be in accordance with actual Danish requirements for home consumption.
Total	160, 445	

ANNUAL QUANTITIES OF SUPPLIES FOR DENMARK, ETC.—Continued
FIBRES AND THEIR PRODUCTS
SCHEDULE D

Commodity	Quantities in metric tons	Notes
Raw cotton and Cotton Waste . .	5,000	Subject to existing stocks and recent imports and not to include present list of silk manufactured goods now imported and classified as non-essentials.
Cotton thread and yarn	2,000	
Cotton manufactures	4,000	
Hemp	3,000	
Cordage	800	
Jute	420	
Silk manufactures	200	
Binder Twine	1,600	To be modified in accordance with acreage to be machine-harvested, at rate of 2 kilos per acre.
Wool shoddy and yarn	1,500	To consist of fibre suitable for and to be used mainly for brooms, brushes and matts. A statement of the actual use to be submitted to the War Trade Board.
Woolen goods	1,200	
Vegetable fibres	1,000	
Total	20,720	

NON-EDIBLE ANIMAL AND VEGETABLE PRODUCTS

SCHEDULE E

Cork and manufactures	1,200	Conditioned upon the export to Norway and/or Sweden of entire exportable surplus. No stock to be accumulated in Denmark of hides as such or in manufactured form.
Heavy Hides	3,000	
Leather soles, upper leather, Belting, Lacquered and dyed Leather.	800	Time of commencement of imports to depend on existing stocks.
Boots and Shoes	280	
Leather goods (manufactured) . . .	200	
Crude Rubber	130	
Bicycle tires	100	
Rubber footwear	100	
Machine Packing	100	
Motor and Motorcycle covers and tubes.	250	
Other rubber articles and manufactures.	100	
Tobacco	5,700	
Feathers	700	
Various Glues and Limes	500	
Total	13,160	

ANNUAL QUANTITIES OF SUPPLIES FOR DENMARK, ETC.—Continued

WOOD, PULP, PAPER, PLANTS AND SEEDS FOR SOWING

SCHEDULE F

Commodity	Quantities in metric tons	Notes
Various woods (not including Walnut, Spruce or Mahogany).	300	Furniture and other approved manufactures in accordance with Danish needs.
Flower Bulbs	740	
Timothy and other grass seeds (not including clover seed of any variety).	1, 250	
Vegetable Tanning Materials (30% extract).	6, 000	
Bamboo	100	
Total	8, 390	

CHEMICALS, DRUGS, EARTH, MINERALS AND MISCELLANEOUS

SCHEDULE G

Lime Borate	200	Beeswax not to exceed 20 tons. Vegetable wax up to a further 50 tons as a replacement of proved exports to approved destinations in manufactured form will be allowed, making a maximum quantity of 120 tons.
Coal Pitch	600	
Calcined Soda, Caustic Soda, Soda Ash.	12, 500	
Sulphur	270	
Citric Acid	20	
Vegetable wax	70	Quantity to be in accordance with actual Danish requirements for home consumption. Ditto.
Tragacanth and various gums . .	90	
Shellac	90	
Turpentine, refined	15	
Turpentine oil	500	
Mineral Turpentine (for varnish).	300	
Zinc Lead and other paints . . .	2, 500	
Varnishes	700	
Wood Tar	900	
Resin	1, 500	
Chemicals (if approved)		To be obtained in Norway. Quantity to be in accordance with actual Danish requirements for home consumption.
Drugs, Medicines and Medicinal Supplies, including mercury in medicinal form and for medicinal purposes and including instruments.		
Graphite	100	
Asbestos (no crocidolite)	275	
Asphalt (not Petroleum residue) .	3, 250	
Talc	150	
Sanitary Goods		
Total	24, 030	
GRAND TOTAL	352, 895	

393

*Agreement between the War Trade Board of the United States and
the Danish Special Shipping Committee*^a

WASHINGTON, September 18, 1918.

In view of the arrangements perfected between the War Trade Board and the Danish Merchants Guild, etc., regarding supplies, provisions and necessary commodities for shipment to Denmark, it is hereby agreed:

1. That the Danish Special Shipping Committee (Fragtnavn) will charter to the United States Shipping Board 265,000 deadweight tons of shipping, and to Great Britain, under an agreement to be simultaneously executed, 200,000 deadweight tons of shipping, all steamers and motor vessels to be over 500 tons deadweight.⁷

Denmark is to have the balance of her ships for her own needs, estimated to be about 340,000 tons deadweight.⁷ This amount of tonnage is to be run for the needs of Denmark, carrying commodities to and from the Kingdom of Denmark, Iceland, Greenland and the Faroe Islands.

Should any of the vessels allotted to Denmark for her own needs not be required for the trade mentioned above, they shall be chartered at the option of the War Trade Board to Belgian Relief or Swiss Government, at the time charter rate of \$10.75 per ton deadweight per month and other conditions as per Clause 5.

It is agreed that the allotment for the various trades of Danish motor vessels and steamships of over 500 tons deadweight shall be as per schedules hereto annexed.⁷ No Danish vessels chartered to the United States shall be employed for transport of troops or in European ore trade.

2. It is agreed that if vessels chartered to the United States should be lost through war or marine risks the United States agrees that it will not request any substitutes for such vessels, beginning from the time that this agreement is signed.

It is further agreed that of the motor vessels and steamships allotted to the United States according to Clause 1, about 80,000 deadweight tons shall be chartered to the Belgian Relief and/or Swiss Government, and the balance to the United States Shipping Board, to be used as follows:

1st: about $\frac{1}{2}$ in or outside the so-called German Submarine Danger Zones as of January 16, 1918.

2nd: about $\frac{1}{2}$ outside such danger zones.

(A Map of the Danger Zone is herewith attached in order that there may be no question about the definition of it.⁸

Time charter rates on motor vessels and steamers chartered to the United States Shipping Board to be \$10.75 per ton on the boats char-

^a For. Rel., 1918, supp. 1, p. 1348. See footnote 5, p. 820.

⁷ Annexed lists of ships not printed.

⁸ Not printed.

tered to the Belgian Relief or Swiss Government and the one-half in or outside the so-called German Danger Zones as above mentioned. The time charter rate on boats used outside the above described Danger Zone is to be \$8.50 per deadweight ton per month.

Charter of the above mentioned steamers shall be for periods of six months and the Danish Special Shipping Committee hereby undertakes that they will until peace is signed by the United States of America renew these charters one month in advance of their expiration on the same conditions.

Providing the regulations of the American and British naval authorities are observed, Danish vessels trading under time charter to the United States or Great Britain in the trades to and from Europe and the Atlantic Islands will, as far as possible, be protected by allied naval vessels.

Any vessels trading in accordance with the provisions of this agreement, including those trading in Danish interests, which may be damaged while so trading, shall be allowed facilities for necessary repairs, as soon as practicable, providing material and labor can be spared for the purpose.

Any Danish vessel under charter to the United States Shipping Board which may be lost or rendered unserviceable by reason of any peril (other than war peril which is for account of the Charterers) and which may be afterwards repaired or salvaged [*salvaged?*] shall be restored to the service of the United States Government with all possible despatch.

3. In the event of the so-called German Danger Zones being extended beyond the limits in force of January 16, 1918, owners of vessels chartered for use outside danger zones as of January 16, 1918, shall have the option of either continuing under their existing charters or rechartering on terms and conditions set out in this agreement for trades inside, to and from the danger zone of January 16, 1918.

The new terms shall apply from the date on which the vessel completes the voyage upon which she was engaged at the time when notice is given.

That the rate of hire payable for vessels trading in the danger zones shall be only payable while they are in such trade; that should they later be transferred to their previous trading limits it is agreed that hire shall again revert to the \$8.50 basis.

Owners may exercise this option at any time on not less than twenty days notice being given to Charterers.

All vessels are to be chartered to the United States on Baltimore charter forms, and conditions to be as per attached forms.

4. Owners of vessels time chartered to the United States, Belgian Relief Commission or Swiss Government shall not be subjected to any taxation by the United States by reason of such ownership, as long as this agreement holds good, nor shall the freight earned, insurance money recovered or interest thereupon be subjected to any such taxation.

5. On steamers and motor vessels chartered to the United States it is agreed that the United States will indemnify owners for losses caused by war risk on the basis of the following valuations:

Ships over 30 years old: \$140 per ton D. W.

Ships 10 to 30 years old: \$165 per ton D. W.

Ships under 10 years old: \$190 per ton D. W.

As to vessels insured against marine risks with Danish underwriters it is agreed that losses for which Danish marine underwriters are not considered liable by So-og Handeleretten in Copenhagen, or eventually by the Supreme Court of Denmark, shall be considered losses through war risks.

It is further agreed that when off hire the vessels are held covered against war risk by the United States. The forms of Danish marine policies at present existing, and existing Danish war risk laws shall apply, but detention money is not to be paid or indemnity given in respect of the capture, seizure or detention of any vessel by the Associated Governments.

Payment for such losses as referred to in the first paragraph of this article and for which the United States are responsible under this agreement shall be made in New York or Washington to the Danish owners within twelve months after the loss of the vessel and interest at 5 per cent shall be paid beginning 60 days after proof of loss of the vessel.

6. The United States undertakes to license necessary bunker fuel, ships stores and provisions for ships reserved for Denmark's own use, said bunker fuel to be sufficient to take the vessels to Denmark direct and return, it being agreed by the Danish Special Shipping Committee that no vessel shall land any part of said fuel, stores or provisions so obtained from the United States in Denmark, or any insular possession of Denmark, or elsewhere or transfer them to any other vessel without specific permission of the War Trade Board.

Vessels time chartered to the United States, Belgian Relief Commission or Swiss Government, and vessels employed in overseas trade for Denmark's benefit to sign United States Bunker Regulations, as per form annexed hereto.¹⁰ Danish vessels named to run in specific Danish or Scandinavian trade shall not be requested to sign the United States Bunker Regulations.

7. The United States will endeavor to aid vessels employed in overseas trades for Denmark's own use in getting as quick despatch in United States ports as possible, and the Danish Special Shipping Committee agrees that all vessels allotted for Danish needs shall carry full cargoes, as far as possible, in both directions, and shall be handled with the utmost possible despatch.

No Danish vessels over 500 tons are to lay up except for necessary repairs, except those on the annexed list.¹⁰ No steamers are to be allowed to go in ballast to load cargo in any other oversea ports than the United States, to carry rations under this agreement.

8. The proper authorities of the United States and Great Britain will give necessary instructions to Danish vessels with regard to routes, time of sailing, etc., which instructions Danish masters will be instructed by their owners to follow.

9. Steamers and motor vessels now under time charter to United States or Great Britain, allocated in this agreement for service to

¹⁰ Not printed.

Denmark, Great Britain or the United States, are to enter such service immediately on expiration of their present time charters.

Charter parties are to be signed for each vessel as she is named to the United States by the United States Shipping Board and the Danish Special Shipping Committee. Steamers now under charter to the United States shall be delivered under this agreement at the port where their present time charters expire. Other steamers are to be delivered at a United States port on the East or West Coast of the United States, at the option of the Shipping Board, delivery being accepted at a port on the coast where the voyage or charter of the vessel ends.

On the expiration of this agreement steamers that are on time charter to the United States Shipping Board under this agreement are to be redelivered on expiration of their charters at a port in the United Kingdom or on the Continent between Bordeaux and Rotterdam or at an East Coast United States port within the limits of their charter.

The Danish Special Shipping Committee agree that they will furnish a monthly statement to the Shipping Board and the War Trade Board showing the position and deadweight carrying capacity of all steamers under the Danish flag; this will include all arrivals and sailings from Denmark.

10. As a special concession to the Danish shipowners, in order to aid the rebuilding of the Danish Mercantile Fleet the War Trade Board agrees to license to the Danish Special Shipping Committee about 25,000 tons of shipbuilding materials. This shall begin to be licensed during 1919 if and as soon as the needs of the United States and her Allies will permit.

11. This agreement is to hold good until peace is signed by the United States of America, unless the United States shall, at the end of one year, give notice cancelling this agreement.

WAR TRADE BOARD,

By VANCE C. MCCORMICK, *Chairman*

DANISH SPECIAL SHIPPING COMMITTEE,

By A. O. ANDERSEN

KAY REINHARD

394

*The Chairman of the War Trade Board (McCormick) to the Danish Minister (Brun)*¹²

WASHINGTON, September 18, 1918.

SIR: An agreement between the Merchants' Guild of Copenhagen and the Danish Chamber of Manufacturers on the one part and the United States War Trade Board on the other part regarding the supply of certain commodities to Denmark and for other purposes,

¹² War Trade Board Files; For. Rel., 1918, supp. 1, p. 1352. See footnote 5, p. 820. An identical letter was addressed under the same date by the Danish Minister to the Chairman of the War Trade Board.

and another agreement between the Danish Special Shipping Committee on the one part and the United States War Trade Board on the other part, having been signed here at Washington, D. C., today by the respective representatives, the undersigned War Trade Board of the United States, by Vance C. McCormick, Chairman, wishes to state as follows with regard to the understanding and carrying into effect of the two agreements.

(1) It is understood that in all cases the Danish Government will take all such steps as may be required to enable the Associations to fulfill the obligations undertaken by them in the said agreements, and that no dispensation will be granted by any Danish Ministry in conflict with the provisions of the agreements.

(2) It is understood that the Danish Government, in view of the desire of the War Trade Board of the United States that an embargo in relation to the Central Powers should be declared with regard to the exportation of eggs, lard, cheese, milk, tallow, fats, fish-oil, whale-oil and all other oils and fats, excepting bacon and butter, will make the export prohibitions effective in the sense desired for all articles with the following exceptions:

Butter, bacon, eggs, milk and cheese (milk and cheese to be reckoned according to their butter value) may be exported to the Central Powers in quantities not to exceed in the aggregate in any one year twenty-four thousand two hundred (24,200) tons at a rate not to exceed four hundred (400) tons per week from September to April, inclusive, and at a rate not to exceed six hundred (600) tons per week from May to August, inclusive, except as follows:

(a) Denmark shall be under obligations first to export to Sweden and Norway at least thirty per centum of her total exportable surplus of butter, bacon, milk and cheese and at least twenty-five (25) per centum of her total exportable surplus of eggs. Fifty (50) per centum of the exportable surplus remaining after Norwegian and Swedish requirements have been met as above may be exported to Germany, provided that they do not exceed the tonnage per week permitted above.

(b) Denmark shall be entitled, during any two weeks, to defer all or any part of the amount she has the right to export hereunder, and such amount as she may defer exporting she shall make up in any following week or weeks by adding such deferred export to the amount she has the right hereunder to export weekly. The foregoing privilege of deferring shall not be cumulative.

(c) Denmark shall also be entitled during any two successive weeks, irrespective of whether she is or is not entitled to export a surplus by reason of having previously refrained from exporting her whole weekly allotment, to increase her export by an amount not in excess of two weeks allotment, provided such increase shall during the successive two weeks be deducted from the amount she has the right to export hereunder.

The foregoing quantities to the Central Powers are conditioned, however, that such export shall not reduce Denmark's exportable surplus of said articles to such an extent as to prevent the exportation to Great Britain of an amount equal to such authorized exports to the Central Powers, provided Great Britain elects from time to time in advance (as hereinafter provided) to purchase her quota thereof. And monthly exports to Great Britain of quantities of each of said articles equal to the export thereof to the Central Powers are agreed to by the Danish Government in case Great Britain elects to purchase, as hereinbefore and hereinafter provided.

Great Britain shall give the Danish Government at the date when this arrangement begins to operate notice as to whether she will elect to take at the average price received for the same commodity exported to countries other than the Central Powers (unless satisfactory arrangements can be made by negotiation) her quota for the succeeding four weeks of butter, bacon, eggs, milk and cheese and every four weeks thereafter she shall be under obligation to give similar notice of her election to take said commodities at a price to be ascertained in the same manner. Up to, but not after, December 1, 1918, Denmark may include in and as a part of said four hundred (400) tons per week of butter, bacon, eggs, milk and cheese, twenty-five (25) tons of waste fats, other than tallow, and, in view of the fact that Denmark is to cease exporting tallow and is also from and after December 1, 1918, to cease exporting other waste fats to the Central Powers, for all of which Denmark has been receiving by way of imports from the Central Powers stearine, X-ray machines and hospital supplies, it is understood that the Associated Governments are to supply the needs of Denmark with respect to stearine and also with respect to X-ray machines and hospital supplies after December 1, 1918.

Denmark may also, between the date this arrangement becomes operative and December 1, 1918 (but not thereafter), export to Germany each week the entrails and intestinal parts of not exceeding five hundred (500) head of slaughtered cattle.

(3) It is understood that Denmark will permit the export to the United States and her associates in the war of any commodities needed by them which she can spare, except the quantities of commodities the exportation of which to Germany is expressly provided for.

It is also understood that while the agreement of even date made between the War Trade Board and said Associations is in force, Denmark will do nothing that will have the effect of interfering with exports to the United States or to any country associated with the United States in the war, or which will have the effect of preventing an increase in the production of any of the articles or commodities

and a consequent increase in the export thereof to the United States and her associates where such increase can be effected without prejudice to the genuine requirements of Denmark for home consumption. It being understood, however, that this will not place any obligation on the Danish Government to issue export licenses in contravention of international law hitherto followed by the Danish Government in regard to exports to belligerent countries.

(4) While the agreements above mentioned continue in effect the Danish Government will see to it that complete statistical information shall be furnished monthly from the date hereof to the accredited representative of the Board in regard to all exports from and imports into Denmark, except such imports from the Central Powers as may not be included in any of the provisions of this agreement. The statistics to be furnished shall be forthcoming not later than thirty days after the period to which they shall have reference, and shall state in detail the name, description and quantity, the country of origin and country of destination of each commodity imported and exported, and the names of the ships or vessels carrying the commodities with the amount carried by each ship or vessel, and shall include statistics in regard to trade with both neutrals and belligerents, except statistics of such imports into Denmark from the Central Powers as may not be included in any of the provisions of this agreement. If any question shall arise in respect to the observance of any restrictions of or prohibitions against exports, upon request the Danish Government will cause full particulars to be furnished to the Board or its accredited representative in regard thereto.

(5) It is understood that with regard to petroleum received by Denmark under the agreement that four thousand (4,000) tons a year may be used for fishing purposes or in the fishing industry, provided that Denmark receives two hundred (200) tons of petroleum a month from Germany for fishing purposes, and such oil is to be delivered monthly by Germany in advance of the export to her of fish by Denmark.

The Danish Government agrees to see to it that there will be no export from Denmark to the Central Powers or their allies of any fish of any kind, except as follows:

Fish and fish products may be exported in quantities not to exceed twenty-five thousand (25,000) tons per annum, the weight to be taken in terms of fresh fish.

The term "fish" shall be taken to include all categories of fish, both salt water and fresh water, including shellfish and marine animals, and the term "fish products" shall be taken to include the products of all fish as herein defined, whether fresh, salted, dried, smoked, canned or preserved in any way whatsoever, but there shall

be no export to Germany or her allies of any oil or derivatives thereof of fish or any marine animals.

Inasmuch as practically all fishing is done in Denmark during about nine months of the year, that period is used hereafter in computing her monthly export, and the quantity of fish and fish products which may be exported to Germany and her allies shall not exceed two thousand seven hundred and seventy-seven (2,777) tons in any month, but Denmark shall be entitled to defer her right to export to the extent of one thousand three hundred and eighty-eight (1,388) tons, and such amount as she may so defer exporting she may make up in any succeeding month or months by adding such deferred export to the amount she has the right hereunder to export monthly.

Denmark shall also be entitled during any month, irrespective of whether she is or is not entitled to export a surplus by reason of having previously refrained from exporting her whole monthly allotment, to increase her export by an amount not in excess of one thousand three hundred and eighty-eight (1,388) tons, provided such increase shall, during the succeeding month, be deducted from the amount she has the right to export hereunder.

The foregoing monthly allotment of two thousand seven hundred and seventy-seven (2,777) tons per month is not, however, to be construed in any event as permitting Denmark to exceed an export to the Central Powers of twenty-five thousand (25,000) tons as a total for the year.

While this arrangement is in force no fish caught by Danish boats shall be landed elsewhere than in Denmark, nor shall any such fish be transferred at sea except in collecting vessels which shall be obliged to land their cargoes in Denmark only.

(6) The Danish Government agrees to see to it that there shall be no export from Denmark to the Central Powers or their allies of any cattle, except as follows:

Cattle may be exported from Denmark to the Central Powers in number not to exceed two hundred and twenty-six thousand (226,000) head per annum at a rate per week not to exceed four thousand (4,000) head per week from January to October, inclusive, and six thousand (6,000) head per week in November and December, except that at any one time there may be allowed a two weeks anticipation of exports, so that, for example, there may be exported from Denmark in the first week of September twelve thousand (12,000) instead of four thousand (4,000) head of cattle, but in this event there could be no further export of cattle for the succeeding two weeks of September.

Denmark shall also be entitled during any two weeks to defer exporting all or any part of the number of cattle she has the right to export hereunder, and such number as she may so defer exporting

she may make up in any following week or weeks by adding such deferred number to the amount she has the right to export weekly. The foregoing right to defer shall not be cumulative.

The foregoing limitation is intended to limit cattle and all products of cattle to the equivalent of four thousand (4,000) head on the hoof per week from January to October, inclusive, and to six thousand (6,000) head on the hoof per week during November and December.

To the extent of but not to exceed fifteen (15) per centum per month of the exports provided for above, dressed beef instead of live cattle may be exported and to the extent such dressed beef is exported, and no further, the products thereof may be separately exported.

The exportation to the Central Powers of the foregoing number of head of cattle is conditioned, however, that such export shall not interfere with Denmark's exporting monthly to Norway and Sweden at least thirty-five (35) per centum of her exportable surplus of cattle.

(7) It is understood that Denmark will limit the export of horses to the Central Powers to two thousand five hundred (2,500) horses per month.

(8) In consideration of the provision of the agreement with respect to the War Trade Board's licensing tanning materials and heavy hides, it is understood that Denmark will prohibit the export of hides to the Central Powers except to the extent hereinbefore permitted on account of her export of dressed beef.

(9) It is understood that Denmark is free to continue the export to Germany of the following articles and no others, except as hereinabove provided, in the quantities or of the value, as the case may be, set opposite each item:

DANISH EXPORTS TO GERMANY

Extracts and essences (except alcoholic and eth- eric) tons . . .	34	Agricultural and dairy ma- chinery tons . . .	78
Sawdust and manufactures thereof tons . . .	29	Machinery parts (agricul- tural and dairy machinery only) tons . . .	63
Firkins, casks and other coopers' work . . . tons . . .	1,654	Books and printed matter, tons . . .	33
Wooden shoes tons . . .	158	Spirits h. l. . . .	214
Butter and cheese color, tons . . .	3	Liqueurs do . . .	124
Rennet and cheese powder, tons . . .	15	Beer, mead, etc. . . . do . . .	37,311
Other goods of chemical, tech- nical nature tons . . .	9	Slaughtered poultry . . . ton . . .	1
Brick, floor tiles . . . do . . .	718	Birds' eggs scores . . .	15,300
China and house utensils, tons . . .	6	Hay tons . . .	87
Garden and agricultural im- plements tons . . .	48.3	Kalkuld do . . .	43
		Seaweed do . . .	668
		Waste paper, etc. . . . tons . . .	726
		Peat do . . .	1,047
		Gravel, paving stones, flints, tons . . .	11,113

DANISH EXPORTS TO GERMANY—Continued

Limestones do . . .	40,382	tion for sugar beet seed	
Chalk stones and chalk		and other seeds . tons . .	424
. do . . .	2,365	Cryolite tons . .	1,000
China clay do . . .	120	With the understanding	
Clay do . . .	160	that the said quantity of	
Insulating material (pro-		one thousand (1,000) tons	
vided in the form of clay		may be exported within	
and exclusive of asbestos)		the six months' period,	
. tons . .	4,766	calculated from the date	
Cabbage (fresh) . do . . .	15,000	this arrangement becomes	
Dried vegetables (not to ex-		operative, the question of	
ceed 1917 exports)		further exports after such	
. tons . .	1,000	six months' period to be	
Beet, turnip, cabbage and		subject to a new agreement	
garden seed in compensa-		with respect thereto.	

It is understood that with due regard to seasonable requirements the quantities of said exports shall be approximately evenly distributed throughout the year.

Denmark shall be at liberty to return to Germany in the course of ordinary business transactions goods of German origin, provided, however, that such goods shall not have entered definitely into the ordinary stocks of the country, and that by such re-export no stipulation in the above agreement respecting the restriction in the exports to Germany shall be evaded. Goods produced in any manufacturing or industrial establishment in whole or in part from raw materials of German origin or goods which have changed in form after having entered Denmark shall not be regarded as "goods of German origin" within the meaning of this clause. If the foregoing is found in actual practice to work unsatisfactorily it will be revised by negotiation between the representative of the War Trade Board in Denmark and the Danish Government.

Copper, lead and other metals to the extent of two hundred (200) tons a year may be exported to Germany, provided that Denmark shall receive in return within sixty (60) days from Germany manufactured goods containing metals of the same kind and to the same extent, less ten (10) per cent for wastage.

Denmark shall likewise be entitled to export to Germany bags to be filled with goods of German origin, on condition that adequate precautions are taken to see that the bags are duly returned within ninety (90) days.

Provided always that the foregoing bags and metals, return for which is provided above, thus temporarily exported, have not been imported into Denmark during the war under any obligation whatsoever toward the Associated Governments.

(10) It is understood that in undertaking the engagements mentioned in the shipping agreement Danish shipping shall have completely satisfied all expectations or claims from the United States

and its associates and that no further demand or claims upon the shipping of Denmark shall be made or expected to be met during the present war.

(11) It is understood that the Danish Government give their consent to the said agreement between the Danish Special Shipping Committee and the War Trade Board and will not withdraw such consent until peace is signed by the United States, provided the War Trade Board licenses the export or facilitates the obtaining, as the case may be, of the commodities contained in the schedules of the agreement with the Merchants' Guild of Copenhagen and the Danish Chamber of Manufacturers, in accordance with the terms and for the duration of the said agreement.

(12) Nothing herein contained shall be construed as in any manner modifying or changing the terms or conditions of any agreement or arrangement between the Governments of Denmark and France, Italy or Great Britain providing for the prohibition or restriction of exports from Denmark, or the terms or conditions of any agreement or arrangement between the Governments of Denmark and France, Italy or Great Britain or the terms or conditions of any guarantee given to or agreement made with those governments by Danish citizens, which is either now in force or which having been in abeyance owing to the suspension of imports to Denmark, may be revived when such imports recommence under the terms of this agreement.

(13) "Germany," "Central Powers" or "Germany and her allies" in this note shall be taken to include all territory occupied by the military forces of the Central Powers, also the whole of any country, whether previously allied or neutral, all or any part of whose territory is now occupied by the military or civil forces of Germany or her allies, excepting France, Italy and Belgium.

(14) The various clauses herein respecting the prohibition of exports to the Central Powers will come to an end simultaneously with the expiration of the agreement between the Merchants' Guild of Copenhagen and the Danish Chamber of Manufacturers on the one part and the United States War Trade Board on the other part.

(15) The obligations herein assumed by the Danish Government are subject to termination by the Danish Government at the end of one year by giving three months prior notice in writing of intention to terminate the same. And such termination of the obligations herein assumed by the Danish Government shall operate to cancel and terminate the agreement of even date herewith made between the Merchants' Guild of Copenhagen and the Danish Chamber of Manufacturers on the one part and the United States War Trade Board upon the other part.

(16) Upon the understanding that Denmark will state its adherence to the arrangement herein outlined, the War Trade Board of the United States (an administrative agency empowered by Executive order to license exports from the United States) assents to and concurs in the said arrangement including the following:

A. It is understood that Denmark will receive at ports of origin the commodities enumerated in the schedules annexed to the agreement of even date herewith between the War Trade Board and the Merchants' Guild of Copenhagen and the Danish Chamber of Manufacturers, in so far as the same are not required for consumption in the United States, and in so far further as the exportation thereof will not so reduce available supplies as to prevent the rationing of the nations associated with the United States in the War.

B. It is understood that the War Trade Board will grant license for the export of such commodities as under the foregoing principles may be obtained in the United States, and where quantities to meet such schedules are not deemed available by the War Trade Board for exportation from the United States when required, export license shall be granted for as much thereof as are available, and in such cases if there are in the United States commodities that can be spared and which the War Trade Board approves, which are capable of use as substitutes for the commodities named in the schedules, licenses will be granted for their export and said Board will grant licenses for bunker fuel and ships stores to vessels transporting all said commodities or their substitutes, as the case may be, if approved by the War Trade Board as aforesaid, to Denmark from other countries as well as the United States.

C. It is understood that the War Trade Board will, in cooperation with the Associated Governments, facilitate the export from Norway and elsewhere to Denmark of nitrates or other fertilizers in the quantities agreed upon (equivalent to thirty-three thousand, three hundred and thirty-three (33,333) tons in terms of nitrates), provided such fertilizers are purchased through agents designated by the War Trade Board, and the Danish Government will see to it that prior to or simultaneous with the importation of said nitrates or other fertilizers at least three tons of cereals will be exported from Denmark to Norway for every ton of nitrate or other fertilizer so imported into Denmark; it being understood that fertilizers other than nitrates are to be reckoned in terms of nitrates in proportion to their fertilizing value.

It is understood that the provisions herein made for the importation into Denmark of nitrates and the exportation of cereals shall not be operative after the lapse of one year from the date hereof.

(17) It is understood that the arrangement herein provided for shall begin to operate ten days after the date hereof.¹³

VANCE C. McCORMICK

395

*The War Trade Board Representative in Cuba (Morgan) to the Secretary of State*¹⁴

[Telegram]

HABANA, September 18, 1918—5 p.m.

[Received 9.24 p.m.]

Your August 21, 4 p.m., and my August 22nd. It is reported here that agreement has been reached in Washington with Spanish lines to coal all their boats at Porto Rico or other American ports to take effect on October 1st. Please advise me if this is correct.¹⁵

MORGAN

396

*The Secretary of State to the Chargé in the Netherlands (Kirk)*¹⁶

[Telegram]

WASHINGTON, September 20, 1918—3 p. m.

2078. Your 4149, August 29, 9 a. m., and other cables on this subject.

It has been decided to inform the Netherlands Chargé d'Affaires that the President is not satisfied with the nature and extent of the publicity given by the Netherlands Government to its protest against the addition to article 55-C of the German Prize Regulations, as communicated by him to the Department. Contemporaneously with this information, a full statement is being issued to the press in this country setting forth the attitude of the United States toward exports to Holland and the use of Dutch ships in connection therewith. Copies of this statement are being furnished to the Netherlands Legation, and the British and French Embassies in Washington and to Sheldon, who is instructed to inform the British Blockade officials. The text of the statement follows. You are instructed to take such

¹³ This period was extended to 15 days by a letter dated Sept. 21 (War Trade Board files).

¹⁴ File No. 652.119/1748; For. Rel., 1918, supp. 1, p. 1744.

¹⁵ Department's memorandum attached to this telegram reads: "Sept. 20, 1918. Mr. Fuller [of the War Trade Board] telephoned to say that he was informed by Mr. Richards [of the Board] that no such agreement had been made but that the agent of the Pinillos Line had assured him that they were quite prepared to have their ships stop at Porto Rico for censorship purposes and that the line would undertake to do this without having the matter taken up diplomatically. L[eland] H[arrison]." The telegram sent in reply, Sept. 20, stated: "Department understands from War Trade Board that no such agreement has been made."

¹⁶ File No. 763.72112 Sa/53; For. Rel., 1918, supp. 1, p. 1532.

steps as to ensure its publication in full in the Dutch press as well as to adopt any other means which in your judgment seem advisable to secure the widest publicity, always taking care to make it very clear that the statement was first published in the American press.

"In view of apparent misapprehension as to the attitude of the Government of the United States toward exports to the Netherlands, the Department of State of the United States, has issued the following statement:

"It has always been, and still is, the desire of the United States Government that the resources of the United States, in so far as they can be spared from purposes essential to the successful prosecution of the war, be made available under proper safeguards to neutral countries in order to assist them in the maintenance of their economic life. The sincerity of this desire has been evidenced by arrangements concluded by the War Trade Board with the authorities of Switzerland, Norway, Sweden, Denmark and Spain, whereby these countries are today obtaining from overseas from the United States and elsewhere important supplies of essential foodstuffs, raw materials and manufactured articles. It has been the hope of this Government that an arrangement could be reached by the War Trade Board with The Netherlands authorities similar to those reached with other neutrals similarly situated, whereby imports from the United States to The Netherlands might be permitted. An understanding was, as is known, tentatively reached in London in January of the current year pursuant to which the United States and the Allied Governments would have facilitated the import to The Netherlands of ample amounts of those supplies which were judged essential for the economic life of the country. This arrangement failed to receive the assent of the Netherlands authorities. Had it not so failed, among the supplies, the import of which would have been facilitated by the United States and the Allied Governments, were the following:

Bread cereals	Amount to meet actual requirements.
Petroleum products	140,000 tons.
Cotton and cotton products . .	26,000 tons.
Copper	4,000 tons.
Magnesite	4,000 tons.
Coffee	35,000 tons.
Cocoa	8,000 tons.
Tea	5,000 tons.
Nuts, etc.	1,000 tons.
Hemp	3,500 tons.
Jute	5,000 tons.
Fibers	1,200 tons.
Lead and lead manufactures . .	4,000 tons.

Also substantial amounts of such commodities as tobacco, iron and steel manufactures, textiles, turpentine, rosin, waxes, capoc, tanning materials, aluminum, antimony, castor oil, chemicals, etc., etc.

The War Trade Board of the United States has at all times been ready in conjunction with the authorities of the Allied Governments, and on reasonable conditions to conform to an arrangement similar to that which failed of approval, taking into account such changes as may have since occurred in the positions of the

several countries concerned with respect to their needs and their supplies. As an earnest of this spirit, and in response to urgent representations of The Netherlands Government as to the privations faced by the Dutch people, the United States and the Allied Governments some months ago offered unconditionally to place at the disposal of the Dutch people 100,000 tons of bread cereals, which it was estimated would tide over the period until the new Dutch crops should be harvested. Under the terms of the offer, these cereals were to be lifted by the employment of some portion of the large number of Dutch vessels lying idle in Dutch European ports. It has developed, however, that owing to German threats against Dutch shipping, The Netherlands Government had not felt in a position to avail itself of this offer of bread cereals, or apparently to avail itself of the willingness of the United States and the Allied Governments to place other supplies at the disposal of the Dutch people. These threats against Dutch shipping have accordingly for many months held idle without financial return and suffering physical deterioration more than 400,000 tons of Dutch shipping in Netherlands European ports, rendering this shipping unavailable either to lift the bread cereals which have been offered, or, if a general commercial understanding should be reached, to lift the other supplies which the United States and the Allied Governments would put at the disposal of The Netherlands Government. It may be noted that this tonnage constitutes the only block of neutral tonnage in the world which is not engaged in useful activity. In order, however, to relieve the Dutch people from a serious food shortage reported by The Netherlands Government, the War Trade Board of the United States in accord with the authorities of the Allied Governments, as a further exceptional measure of relief, freely licensed bunker coal and ships stores to permit of substantial amounts of grain cereals being lifted by vessels other than those which had originally been stipulated for. Thus, the *Nieuw Amsterdam* and certain vessels normally employed in Western Atlantic trade have transported approximately 50,000 tons of bread cereals to The Netherlands. The balance, largely in the Argentine, remains unlifted now for nearly six months, because of acquiescence in the position of Germany, which, while receiving from The Netherlands large amounts of foodstuffs, at the same time threatens with destruction Dutch vessels which might be sent even to another neutral country to lift grain for the Dutch people.

Commercial relations between the United States and the Dutch colonies have been resumed on a normal basis. In these waters, free from the menace of German submarine activity, Dutch shipping moves freely in the transport of commodities between the United States and the Dutch East Indies. It is the hope of the United States Government that ships may be sent out from Dutch ports to lift the grain which is awaiting shipment to The Netherlands, thereby opening the way for a general resumption of trade relations between the United States and The Netherlands similar to that which is so happily existing between the United States and the Dutch colonies.'"

LANSING

*The Secretary of State to the Ambassador in Great Britain (Page)*¹⁷

[Telegram]

WASHINGTON, September 27, 1918—3 p.m.

1648. For Sheldon [from War Trade Board]:

No. 1282 For your confidential information. Following is text of cablegram despatched by the Navy Department to Admiral Sims.

"Replying to your 4881 the Department's policy has in general been opposed to permitting unarmed steamers or sailing ships to proceed independently into European and North Atlantic waters. Whenever the danger is not considered great for any specific voyage and the cargo carried is such that it could not materially aid submarine operations or be transported by submarines if captured, it has been deemed advisable to make certain exceptions to this general policy. Thus, the War Trade Board, in the matter of the issuance of bunker licenses, has adopted rules in substance as follows:

1. No unarmed steamer will be permitted to proceed independently from any port of the United States or its possessions when her deck cargo consists wholly or in part of petroleum or its by-products, foodstuffs, brass and copper or other similar metals as such, when their voyages will necessitate navigating waters north of the latitude of Charleston, South Carolina.

2. No sailing vessel will be permitted to proceed from any port of the United States or its possessions, bound on any voyage to any port on the west coast of Africa north of Cape Palmas inclusive, to any European port, to any Mediterranean port, or to any port of an island in the Atlantic Ocean east of 30 degrees West Longitude and north of 4 degrees North Latitude. The foregoing, irrespective of the nature of the cargo.

3. No sailing vessel will be permitted to sail from any Atlantic or Gulf port of the United States, or its possessions, including sailings from any Pacific port through the Panama Canal, bound on any voyage whatsoever when such vessel carries any quantity of petroleum or its by-products or foodstuffs as cargo unless such petroleum and its by-products and foodstuffs are so stowed in the hold of the vessel beneath cargo of a different nature, as to make it manifestly difficult for any submarine to remove such petroleum or its by-products or such foodstuffs.

4. No sailing vessel will be permitted to sail from any Atlantic or Gulf port of the United States, or its possessions, including sailings from any Pacific port through the Panama Canal, on any voyage whatsoever, with any quantity of brass, copper or other similar metals as such.

As the result of special negotiations, the War Trade Board has adopted the following exceptions to the general rules stated above.

(a) Spanish sailing vessels will be permitted to traverse the danger zone *en route* to Spain, provided such vessels are fully

¹⁷ File No. 600.119/1429a; For. Rel., 1918, supp. 1, p. 997.

loaded with no objectionable cargo as defined in 3 and 4 above.

(b) Portuguese sailing vessels will be permitted to traverse the danger zone *en route* to Portugal provided such vessels are fully loaded with no objectionable cargo as defined in 3 and 4 above.

(c) Sailing vessels carrying "safe-conducts" from the German Government will be permitted to sail from the United States ports to Cette with cargoes destined to Switzerland, provided the cargoes of such vessels are unobjectionable as defined in 3 and 4 above.

In all cases where the vessels are permitted to proceed as outlined in the foregoing, a condition precedent to the granting of the bunker license is that no suspicion whatever is entertained against the masters or the crew of the vessels.

It is requested that an expression similar to the above be obtained from the Inter-Allied Maritime Transport Council and communicated to the Department by cable."

The cable was submitted to us before it was despatched and represents our attitude towards the question of sailing vessels. Repeat to McFadden and show to Stevens as confidential information.

LANSING

398

*The Secretary of State to the Ambassador in Great Britain (Page)*¹⁸

[Telegram]

WASHINGTON, September 28, 1918—2 p. m.

1673. For Sheldon [from War Trade Board].

Number 1294. The following is the text of a cable to Edwards in reply to a cable from him indicating some uncertainty as to the status of the Inter-Allied Trade Committee at The Hague and its relations to the Ministers at The Hague and to A[llied] B[lockade] C[ommittee]:

"Our understanding of the status of the Inter-Allied Trade Committees in northern neutrals is that these committees are in the nature of subcommittees of the War Trade Board and the similar blockade organizations of the Associated Governments. As such, these committees are not subordinate to or dependent upon A. B. C. London, neither are they committees of representatives of the ministers of the Associated Governments. The members of the Inter-Allied Trade Committee are of course attached to legations and should work in closest possible harmony with minister. At the same time, we, with the approval of the State Department, retain for our representatives the right to communicate their views direct to the War Trade Board. Of course, such communications pass through the legation, giving the ministers an opportunity to present to the Department of State any points in which the ministers do not concur with the views of our representative. It is also, of course, understood that no action

¹⁸ File No. 600.119/1440a; For. Rel., 1918, supp. 1, p. 998.

should be taken by our representatives over an objection of a minister until the matter has been referred for decision to Washington. With reference to relations to A. B. C. these relations should also be of the closest character and it is expected that the Inter-Allied Trade Committees, recognizing the central position of the Allied Blockade Committee, and its general oversight over entire northern neutral situation, will be inclined to concur in recommendations of A. B. C. At the same time the A. B. C. does not assume to direct Inter-Allied Trade Committee or to compel acceptance of its views unless these are expressly concurred in by Associated Governments. The success of foreign organization as at present constituted depends largely upon close and friendly cooperation between A. B. C. and Inter-Allied Trade Committees and we are happy to note that there is every indication that such a relationship now prevails."

LANSING

399

*The Secretary of State to the British Chargé (Barclay)*¹⁹

No. 270

WASHINGTON, September 30, 1918.

SIR: I have the honor to advise you that the United States Government has approved in principle an invitation to the Japanese Government to associate itself with the Governments of the United States, Great Britain, France and Italy, in the preparation and publication of so-called Enemy Trading or Black Lists to the end that the Japanese Government may adopt, so far as practicable, the same measures for the control of trade by Japanese subjects with enemy houses as have been adopted by this Government in cooperation with the Governments of Great Britain, France and Italy.

The United States Government is prepared to extend to the Japanese Government an invitation to participate in the conferences now being held in London, Paris and Washington for the consideration of enemy trading lists and licenses, providing the other Governments participating by their representatives in such conferences, are willing to join in such an invitation.

The United States Government anticipates that the Imperial Japanese Government will expect that the plan of joint enemy trade cooperation will involve the creation of an additional committee to consider enemy trading lists for China and the Far East to sit at Tokyo, and in the interests of securing the fullest and most cordial cooperation of the Japanese Government in enemy trading matters, the United States Government is disposed to favor acceding to such a suggestion if presented by the Japanese Government and to urge upon the other Governments represented in the conferences above referred to their consent to such a proposal.

¹⁹ File No. 763.72112 A/3859; For. Rel., 1918, supp. 1, p. 1062.

The United States Government is of the opinion that the Japanese Government is favorably disposed to accept such an invitation if extended by the various Governments now participating in the conferences above referred to.

I have the honor to urge most earnestly that this proposal may receive the approval of your Government and that steps be taken by all the Governments associated in enemy trading matters to extend to the Imperial Japanese Government a cordial invitation for participation in the conferences already in operation in London, Paris and Washington and that each of the participating Governments, if requested by the Japanese Government, agree to the convocation of an additional conference in Tokyo.

Accept [etc.]

ROBERT LANSING

400

*The Secretary of State to the Ambassador in Great Britain (Page)*²⁰

[Telegram]

WASHINGTON, October 1, 1918—3 p. m.

1708. For Sheldon [from War Trade Board]:

No. 1322. Your 1497 Embassy 2175 Sept. 24. 6 p.m. British Embassy have discussed with us the subject of our agreement with the N[etherlands] O[versea] T[rust] and they have informally expressed themselves as being entirely satisfied with our attitude which the foreign office evidently did not understand. We are fully in accord with the principle of utilizing the N.O.T. as a control organization and it is not our intention to do anything to permit Germany or the Dutch Government to weaken N.O.T. control. Our reason for not desiring at this time to conclude an identical agreement is that we do not wish to take a position with reference to the control of exports between neutral countries which the Dutch Government can point out as being inconsistent with the position which we expressed when neutral. We, therefore, by our present agreement desire only to control exports from the U. S. or exports carried by bunkers furnished by U. S. We are prepared, however, in general negotiations with the Dutch Government to seek to secure the voluntary consent of the Dutch Government, in return for concessions granted by us, to the broader control over all imports exercised by the N.O.T. If the Dutch Government agrees to such general control, we then see no reason why we should not conclude with the N.O.T. an agreement practically identical with that which we understand the British Government desires to conclude.

We are cabling Edwards to keep you fully posted as to any steps taken by him to conclude an agreement with N.O.T. in accordance with the previous instructions of the Department. We trust that there is no lack of cooperation with you on the part of Edwards, such as your cable might seem to indicate. Please advise us at once on this point.

LANSING

* File No. 656.119/772; For. Rel., 1918, supp. 1, p 1543.

*The Secretary of State to the Chargé in the Netherlands (Bliss)*²¹

[Telegram]

WASHINGTON, October 1, 1918—4 p. m.

2154. You are instructed at any time after 48 hours from the receipt of this cable to communicate to the Foreign Office and to make public the following offer of the Government of the United States:

The Government of the United States is reliably informed that the Dutch people are able to secure German coal only in uncertain amounts and upon harsh terms which include the export from the Netherlands to Germany of large amounts of foodstuffs which the Dutch people themselves require. In view of this situation and the approach of winter, with consequent increased needs for coal, the Government of the United States has carefully investigated its own fuel situation for the purpose of determining whether coal might not be spared for the use of the Dutch people. There is a very distinct shortage of coal in the United States and severe measures are being adopted to reduce domestic consumption. The Government of the United States is, however, confident that the American people are ready to make increased sacrifices for the sake of a friendly people whose need is perhaps greater than their own. Accordingly, the Government of the United States offers to place at the disposal of the Netherlands Government, beginning forthwith, at least 100,000 tons of coal per month for the next twelve months or the earlier termination of the war. This coal will be delivered at an Atlantic port to vessels sent from the Netherlands to lift the same.

The Government of the United States exacts for itself no compensation from the Netherlands for the coal which is thus supplied. The only condition attached to the proposal is that the Netherlands Government avail of the opportunity which is offered to cease the export of foodstuffs to Germany.

The Government of the United States recognizes that acceptance of this offer will require the service of a substantial part of the Dutch ships now idle in Netherlands European ports. In order, therefore, to permit of the lifting of other commodities with the least possible consumption of tonnage, the Government of the United States is prepared to discuss with the Netherlands Government the supplying of a substantial part of Dutch cereal requirements from the United States itself. It will be apparent that this will involve a great saving of tonnage over lifting grain from more distant points. It will also be understood that with the stoppage of food exports to Germany the American people will more readily save foodstuffs to make them available for the Dutch people.

The Department is contemporaneously communicating the terms of the foregoing offer to the British Foreign Office and the delay which you are to observe, which was placed at 48 hours at the suggestion of the British Embassy is to permit of comment thereon by

²¹ File No. 656.119/784b; For. Rel., 1918, supp. 1, p. 1544.

the British Foreign Office. In choosing the time and manner of making this offer, you will, subject to the instructions above contained, exercise your discretion, having in mind the Dutch-German coal negotiations which we understand are proceeding at the present time and which negotiations it is trusted will be embarrassed, if not blocked, by this proposal.

You are authorized in your discretion, at the time of presenting this proposal or subsequently, to point out to the Foreign Office that it is estimated that imports of 100,000 tons of coal per month added to local production will make Holland entirely independent of coal from Germany, but that if this is not the case the Government of the U. S. will consider increasing slightly the amounts of coal which will be put at the disposal of the Netherlands Government in the U. S. You will, however, have in mind the scarcity of coal in the United States.

LANSING

402

*The Consul at Curaçao (Messersmith) to the Secretary of State*²²

[Telegram]

WILLEMSTAD, October 8, 1918—11 a.m.

[Received October 9—6.00 p.m.]

I have the honor to transmit the following from Consul of the United States at Puerto Cabello.

"October 7th. Spanish steamer *Villamanrique* desires permission to proceed from here to Barcelona via Venezuelan ports and port in the Canaries subject to same conditions as in original license which reads Havana, Puerto Cabello, Barcelona dated September 27th. Appears to be no objection to this change. Signed Henry."

Send reply to Consul of the United States at Puerto Cabello.²³

MESSERSMITH

403

*The Chairman of the War Trade Board (McCormick) to the Third Secretary of the British Embassy (Hudson)*²⁴

WASHINGTON, October 11, 1918.

MY DEAR MR. HUDSON: Mr. L. L. Richards has referred to me your letter to him of Oct. 4, relative to the examination of vessels

²² File No. 652.119/1916; For. Rel., 1918, supp. 1, p. 1745.

²³ The reply, Oct. 19, was as follows:

"War Trade Board requires Spanish steamer *Villamanrique* to call at Porto Rico after leaving Venezuela *en route* to Canaries and Spain."

²⁴ War Trade Board Files.

proceeding from the United States to Northern Neutrals. It is my understanding that your government waives entirely the requirements of call at Halifax in the case of vessels which load in the United States and then proceed direct to one of the Northern Neutrals. It is, thus, only in the case of vessels which stop at a United States port in transit that requirements for call at Halifax may be made.

I should appreciate it very much if you would take up with your government the question of eliminating entirely the necessity of call at Halifax in the case of all vessels which touch a United States port, so that they may be searched here. I believe that your government is entirely satisfied with the thoroughness of our examination, which is, of course, participated in by your own naval officers, and it therefore, seems illogical to require the waste of shipping involved in causing vessels which touch at a United States port in transit and may be examined here, to call also at Halifax for examination.

I am [etc.]

VANCE McCORMICK

404

*The Acting Secretary of State to the Chargé in Great Britain
(Laughlin)*²⁵

[Telegram]

WASHINGTON, *October 11, 1918—5 p. m.*

1936. For Sheldon [from War Trade Board]:

No. 1386 Refer enemy trading license conference, British Government has suggested that pending settlement of the minor difficulties which now exist in the matter of complete agreement on enemy trading license conference, formal conference be resumed each government participating to the extent to which it has agreed. The negotiations for full agreement will be continued by conference at Washington. We feel this plan satisfactory.

French, Italian governments at Washington have agreed. Washington conference now in formal operation. Take steps to reinstate formal meetings enemy trade license conference London.

POLK

²⁵ File No. 763.72112/10532a; For. Rel., 1918, supp. 1, p. 1067.

The same, except for the last word, which was "Paris," on the same date, to the Ambassador in France, No. 5878, for McFadden, No. 367 (File No. 763.72112/10620a).

405

*The Acting Secretary of State to the Ambassador in France (Sharp)*²⁶

[Telegram]

WASHINGTON, *October 11, 1918—5 p. m.*

5873. For [Mc]fadden [from War Trade Board]:

No. 366. Stetson. Japan may soon request Paris and London for inclusion in Inter-Allied Enemy Trading Listing and Licensing Committees on basis principle unification of Enemy Trading Lists and stricter administrative control. England will assent to inclusion Japan if Japan requests it. We deem it of great importance that Japan should participate Conferences Paris and London as well as Washington.²⁷ French Blockade representative, Washington is telegraphing his government accordingly.

POLK

406

*The Chargé in Great Britain (Laughlin) to the Secretary of State*²⁸

[Telegram]

LONDON, *October 16, 1918—8 p.m.*

[Received October 17—6 p.m.]

2865. War Trade Board [from Sheldon]:

"No. 1683. As a result of conference with the Foreign Office, British Admiralty, and the United States Navy representatives, the following memorandum was drawn up as a suggestion for a plan of examination of northern neutral vessels with a view of eliminating the call at Halifax. If you are prepared to approve the same and arrange for staff to examine cargoes at the ports mentioned in paragraph 12, the British will furnish representatives to work in conjunction with our staff at these ports in the same way as they now cooperate in the work at the port of New York. If this plan is agreed to,²⁹ I suggest that whatever facts in connection therewith are communicated to shipowners should be in the nature of an expression of the Associated Governments' desire to facilitate the movement of their ships which would be in the nature of a concession rather than any announcement or intimation be made that new rules were being

²⁶ File No. 763.72112/10618a; For. Rel., 1918, supp. 1, p. 1067.

²⁷ The Acting Secretary of State informed the Ambassador in Mexico as follows on Dec. 21: "Japan is now participating Enemy Trade Conferences London, Paris, and Washington." (File No. 763.72112A/5402a.)

²⁸ File No. 763.72112 Sa/90; For. Rel., 1918, supp. 1, p. 1003.

²⁹ In considering this plan, the War Trade Board considered also a plan for examining in a port of Puerto Rico or of the United States, Spanish vessels proceeding to or from Spain (War Trade Board Files).

issued to control neutral ships which might make such action seem comparable with the German safe conduct system. The memorandum which has the approval of the United States Navy and the British Admiralty is as follows:

[1] The question of examination of neutral vessels proceeding across the Atlantic to and from Scandinavian and Dutch ports has been receiving consideration and it is felt that the establishment of the United States Examination Service has in most cases rendered the call at a British examination port unnecessary as long as certain modifications are introduced in order to maintain the present procedure designed to control cargoes and passengers.

[2] The present position is as follows:

- (a) Westbound vessels, i. e. vessels from Holland and Scandinavia bound direct to the United States whose first port of call is New York are not required to call at Halifax as the Joint Examination Service in New York is considered to be sufficient.
- (b) Westbound vessels not proceeding direct to New York are required to call at Halifax as before.
- (c) Eastbound vessels which load entirely at United States [ports] are not required to call at Halifax.
- (d) Eastbound vessels which load at other than United States ports are required to call at Halifax before proceeding to Europe.

[3] If the vessels referred to in paragraph 2 (b) and 2 (d) above are not to be required to call at Halifax in the future, it is considered necessary in order that the present machinery of the blockade should not be thrown out of gear that cooperation should be established between the Allied Blockade Committee, the Enemy Export Committee, and the Admiralty in London, and the authorities charged with examination service in the United States ports. The general proposal[s] are as follows; but before any steps taken the concurrence of the United States authorities is necessary.

4. The new system which it is necessary to introduce is as follows:

- (a) Westbound ships, steam or motor, to Atlantic ports other than United States to call at Kingston, Jamaica or United States examination port.
- (b) To West Indies must call at Kingston unless calling at a United States examination port.
- (c) To the Pacific via Panama Canal examination to be carried out at Panama or Colon.
- (d) To the Pacific via Cape Horn must call at a United States examination port or Kingston as in the case of vessels bound to Atlantic ports other than to United States.
- (e) To the United States proceed direct to examination port.
- (f) Eastbound ships, steam or motor from Pacific via Panama Canal examination to be carried out at Colon, Kingston, or at a United States examination port.
- (g) From Atlantic port south of United States or West Indies or Pacific via Cape Horn to call at a United States examination port or Kingston.

- (h) From United States in cases where the entire cargo has been loaded in the United States to proceed direct from examination port.

In all cases last port of call must be an examination port. A list of the examination ports is given in paragraph 12. Sailing ships to call at Kingston, Halifax, or a named United States examination port as they select.

5. In order that the present system of control of cargoes and passengers should be maintained it is proposed that at each of the examination port a British officer should be appointed who would work in conjunction with the United States examination authorities and these jointly would be charged with the duty of furnishing to the Allied Blockade Committee, the Enemy Exports Committee, and the Admiralty, the information these bodies require for Blockade purposes.

6. The following procedure is proposed in the case of eastbound vessels [not?] wholly loaded in United States ports. It is considered desirable for statistical purposes that a copy of the manifest should be forwarded to London in case of eastbound vessels loading at other than United States ports. It is desired that any doubted points arising in connection with the examination should be referred to London and that in any case the vessel should not be cleared without concurrence from London.

7. The Allied Blockade Committee would then be able to arrange as at present that the cargo or item of the cargo should be withheld from delivery pending consideration of the manifests.

8. In cases where consideration is necessary, it may often be possible to release a vessel from examinations [port] and allow her to proceed to United States bunkering port or to Halifax while her case is being considered.

9. In the case of all ships clearing from United States ports to Scandinavia and Holland it is important that their names and date of sailing should be communicated to London in order that the patrols may be warned.

10. In case of westbound vessels their names should be supplied by the Foreign Office to the representative of the War Trade Board in London who will inform the United States authorities. The receipt of this information will imply that their cargo is in order and on arrival all that is desired is that the manifests shall be checked by arrival certificates of origin and bills of lading and that a copy of the manifests and the original certificates of origin shall be returned to the secretary of the Allied Blockade Committee, London, so that it may be ascertained that the actual cargo agrees with that approved. As regards passengers, the British officer should communicate with Admiralty concerning any cases about which there is any doubt and he will [be] able to furnish the United States examination officers with any information available here for the purpose of preserving the British control over passengers.

[11] The examination base at Halifax will still be maintained and ships engaged in the trans-Atlantic trade may, at any time, be ordered to call at that port and for such purposes diverted from their course if necessary without prejudice to the general provisions of this scheme.

12. Examination ports. The following are the United States ports at which it is proposed that the joint examination service should be introduced: New York joint examination service already in existence; Philadelphia to cover Baltimore; Norfolk to cover Newport News; New Orleans to cover for gulf ports; Colon for vessels passing through Panama Canal."

LAUGHLIN

407

*The Secretary of State to the Ambassador in Spain (Willard)*³⁰

[Telegram]

WASHINGTON, October 17, 1918—3 p.m.

1687. For Chadbourne [from War Trade Board]:

No. 311. Please consider whether it may not be advisable for us to resume bunker control of Spanish ships in the interests of Spain herself. Large amounts of cotton and petroleum which we have licensed for export are not being lifted and at the same time we are aware of Spanish vessels being employed to lift cargoes of less essentials such as tobacco, etc. It occurs to us that the Spanish Government might welcome an exercise by us of control over Spanish ships which would ensure at least a certain amount of her shipping being kept in trade between the United States and Spain to lift essential commodities.

LANSING

408

*The Secretary of State to the Chargé in Great Britain (Laughlin)*³¹

[Telegram]

WASHINGTON, October 22, 1918—2 p.m.

2341. For Sheldon [from War Trade Board]:

No. 1469. With reference to coming Dutch negotiations, it is our feeling that the Associated Governments should make clear from the beginning that they desire and expect to obtain an agreement entirely different in character from that which was negotiated at London last December. We feel that the objective of the Associated Governments should be the entire cessation of all exports to Germany and the making available to them of Holland's entire exportable surplus, which surplus the Allies would, with the elimination of exports to Germany, be prepared to see increased through the importation of feeding stuffs, fertilizers, etc. According to our estimates, it should be possible to secure a considerable number of horses from Holland which are very urgently needed by the A[merican] E[xpeditionary]

³⁰ File No. 652.119/1905a; For. Rel., 1918, supp. 1, p. 1712.

³¹ File No. 656.119/861c; For. Rel., 1918, supp. 1, p. 1551.

F[orces]. Also, with the evacuation of [by] the enemy of a large part of Belgium it becomes increasingly important that the Dutch surplus of vegetables and dairy products be increased as far as possible and made available for the use of the civilian population of Belgium. Unless large amounts of such supplies can be secured from Holland, a very heavily increased burden will be thrown upon the shipping of the Allies and it should be our policy to secure the utilization of Dutch tonnage to transport fertilizers and feeding [stuffs] to Holland for the production of food stuffs which otherwise would have to be imported by bottoms controlled by the Allies.

If this program can be carried out, it will of course be necessary for the Allies to supply all of Holland's essential import requirements. We believe that the Allies can supply all of these, except possibly iron and steel, and it is possible that even this can be spared, in view of the very great importance of making Holland entirely independent of Germany. We should like to have the views of the British Blockade on this subject.

Please repeat to Edwards.

LANSING

409

The Secretary of State to the Ambassador in France (Sharp) ³²

[Telegram]

WASHINGTON, October 22, 1918—5 p.m.

5976. For [Mc]fadden [from War Trade Board]:

No. 394. Your 476, Embassy 5306, Oct. 4, 12 noon, and your 443, Embassy 5175, Sept. 23, 11 p. m. We approve in substance of the plan of September 7 accompanying your letter of September 11 for Blacklist for Switzerland, as modified to meet objections of French. We do not, however, favor the presentation of a joint note to the Swiss on this subject, believing that representations with respect to the Blacklist should be kept informal. The substances of the note should therefor in so far as United States is concerned be orally presented. Of course, it is to be kept clear, as matter of record, that the War Trade Board bases its Blacklist upon the recommendations of its own representative and is not bound by the decision of the Paris or Berne Committees.

LANSING

³² File No. 103.96/1245; For. Rel., 1918, supp. 1, p. 1072.

410

*The Special Representative (House) to the Secretary of State*³³

[Telegram]

LONDON, October 29, 1918—3 p.m.³⁴

5. Following for the President:

At my request Cobb and Lippmann³⁵ have compiled the following respecting your fourteen points. I shall be grateful to you if you will cable me whether it meets with your general approval. Here follows memorandum.

"I. Open covenants of peace, openly arrived at, after which there shall be no private international understandings of any kind, but diplomacy shall proceed always frankly and in the public view.

The purpose is clearly to prohibit treaties, sections [of] treaties or understandings that are secret, such as the [Triple Alliance], et cetera.

The phrase "openly arrived at" need not cause difficulty. In fact, the President explained to the Senate last winter that the phrase was not meant to exclude confidential diplomatic negotiations involving delicate matters. The intention is that nothing which occurs in the course of such confidential negotiations shall be binding unless it appears in the final covenant made public to the world.

The matter may perhaps be put this way: it is proposed that in future every treaty be part of the public law of the world, and that every nation assume a certain obligation in regard to its enforcement. Obviously, nations cannot assume obligations in matters of which they are ignorant; and therefore any secret treaty tends to undermine the solidity of the whole structure of international covenants which it is proposed to erect.

II. Absolute freedom of navigation upon the seas, outside territorial waters, alike in peace and in war, except as the seas may be closed in whole or in part by international action for the enforcement of international covenants.

This proposition must be read in connection with number XIV which proposes a League of Nations. It refers to navigation under the three following conditions:

1. General peace;
2. A general war, entered into by the League of Nations for the purpose of enforcing international covenants;
3. Limited war, involving no breach of international covenants.

Under 1 (general peace) no serious dispute exists. There is implied freedom to come and go [on the high seas].

No serious dispute exists as to the intention under 2 (a general war entered into by the League of Nations to enforce international

³³ File No. 763.72119/8979; For. Rel., 1918, supp. 1, p. 405.

³⁴ Time of receipt not indicated on file copy; the "London" in the date line, at a time when Colonel House was in Paris, is probably explained by the forwarding of the telegram from there.

³⁵ Frank I. Cobb, editor of the *New York World*, and Walter Lippmann, Secretary of The Inquiry, later attached to the Commission to Negotiate Peace.

covenants). Obviously such a war is conducted against an outlaw nation and complete non-intercourse with that nation is intended.

3 (A limited war, involving no breach of international covenants) is the crux of the whole difficulty. The question is, what are to be the rights of neutral shipping and private property on the high seas during a war between a limited number of nations when that war involves no issue upon which the League of Nations cares to take sides. In other words, a war in which the League of Nations remains neutral. Clearly, it is the intention of the proposal that in such a war the rights of neutrals shall be maintained against the belligerents, the rights of both to be clearly and precisely defined in the law of nations.

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XIV. A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small [states] alike.

The principle [question] of a League of Nations as the primary essential of a permanent peace has been so clearly presented by President Wilson in his speech of September 27, 1918, that no further elucidation is required. It is the foundation of the whole diplomatic structure of a permanent peace.["]

EDWARD HOUSE

411

*The President to the Special Representative (House)*³⁶

[Telegram]

WASHINGTON, October 30, 1918.

Analysis of fourteen points satisfactory interpretation of principles involved but details of application mentioned should be regarded as merely illustrative suggestions and reserved for peace conference. Admission of inchoate nationalities to peace conference most undesirable.

WOODROW WILSON

412

*The Special Representative (House) to the Secretary of State*³⁷

[Telegram]

PARIS, October 30, 1918—4 a. m.

[Received 2.30 p. m.]

8. For the President.

Lloyd George, Balfour, and Reading lunched with me today³⁸ and George stated that it was his opinion that if the Allies submitted to

³⁶ President Wilson's Files; For. Rel., 1918, supp. 1, p. 421.

³⁷ File No. 763.72119/8982; For. Rel., 1918, supp. 1, p. 421.

³⁸ Oct. 29; the telegram was evidently written on that date, though not sent until after midnight.

Germany's terms of Armistice without more [discussion?] Germany would assume that the Allies had accepted President Wilson's fourteen points and other speeches without qualification. So far as Great Britain was concerned George stated point 2 of speech of January 8th, 1918, respecting freedom of the seas, could not be accepted with[out] qualification. He admitted that if point 2 was made a part of point 14 concerning League of Nations and assuming League of Nations was such a one as Great Britain could subscribe to it might be possible for Great Britain to accept point 2. He said that he did not wish to discuss freedom of the seas with Germany and [if] freedom of the seas was a condition of peace Great Britain could not agree to it. Before our discussion ended it seemed as though we were near an agreement concerning this matter along the lines of interpretation of point 2 heretofore cabled you in cable number 5³⁹ to the Department.

We then went to conference at Quai d'Orsay attended by Clemenceau, Pichon, George, Balfour, Sonnino and myself. Conference opened with discussion of fourteen points enumerated in President's address of January 8th last. Clemenceau and others balked at number [point] 1 until I read them interpretation thereof as cabled to you in telegram number 5. They then all accepted number [point] 1. After number [point] 2 had been read George made a short speech worded so as to excite Clemenceau. He reversed his position taken a short time before with me privately and said respecting point 2: "We cannot accept this under any circumstances it takes away from us the power of blockade. My view is this, I want to see character of League of Nations first before I accept this proposition. I do not wish to discuss it with Germany. I will not make it a condition of peace with Germany." I stated that if these views were persisted in the logical consequences would be for the President to say to Germany: "The Allies do not agree to the conditions of peace proposed by me and accordingly the present negotiations are at an end." I pointed out that this would leave the President free to consider the question afresh and to determine whether the United States should continue to fight for the principles laid down by the Allies. My statement had a very exciting effect upon those present. Balfour then made a forceful speech to the effect that it was clear that the Germans were trying to drive a wedge between the President and the Allies and that their attempts in this direction must be foiled.

It was then suggested that France, England, and Italy confer together and submit tomorrow drafts of the proposed answers to the President's communication asking whether they agree to his terms of peace, stating where they can agree with the President and where they disagree. I then offered to withdraw from the conference so that they would feel at liberty to discuss the matter between themselves. They all stated that they had no secret from America and that they wished me to remain. Accordingly it was agreed after further discussion and after the reading of the terms agreed upon by the Inter-Allied Naval Conference now in session in Paris for the naval armistice that we should meet Wednesday afternoon to con-

³⁹ Document 410.

sider draft answers by the Allies to the President's communication transmitting correspondence between the President and Germany.

French Prime Minister and Italian Prime Minister are not at all in sympathy with the idea of League of Nations. Italian Prime Minister will probably submit many objections to fourteen points. French Prime Minister, George, and I agreed to meet Wednesday morning without Italian Prime Minister for the purpose of further discussion.

It is my view that privately George and Balfour believe that the proposed terms of the naval armistice and those of the military armistice are too severe. They wish to get just as much as they can but they wish to be able to continue negotiations in the event that Germany refuses to accept the terms proposed.

An exceedingly strict censorship by the French War Office makes it impossible for American correspondents to send any communications to the United States respecting the progress of the present conference. I am examining into this matter and it may be advisable to take drastic steps in order that the United States can arrange for herself what news of political character shall be communicated to her people.

EDWARD HOUSE

413

*The President to the Special Representative (House)*⁴⁰

[Telegram]

WASHINGTON, October 30, 1918.

I feel it my solemn duty to authorize you to say that I cannot consent to take part in the negotiation of a peace which does not include freedom of the seas because we are pledged to fight not only to do away with Prussian militarism but with militarism everywhere. Neither could I participate in a settlement which did not include league of nations because peace would be without any guarantee except universal armament which would be intolerable. I hope I shall not be obliged to make this decision public.

WOODROW WILSON

414

*The Special Representative (House) to the Secretary of State*⁴¹

[Telegram]

PARIS, October 30, 1918—9 p.m.

[Received October 31, 5.50 a.m.]

12. For the President.

Lloyd George, Clemenceau and I met for 45 minutes this morning alone at the office of the Minister of War. Just before we entered

⁴⁰ President Wilson's Files; For. Rel., 1918, supp. 1, p. 423.

⁴¹ File No. 763.72119/8985; For. Rel., 1918, supp. 1, p. 425.

Clemenceau's office George handed me a proposed answer to the President which the British authorities had drafted. I quote the draft in full.

"The Allied Governments have given careful consideration to the correspondence which has passed between the President of the United States and the German Government. Subject to the qualifications which follow, they declare their willingness to make peace with the Government of Germany on the terms of peace laid down in the President's address to Congress of January 8, 1918,⁴² and the principles of settlement enunciated in his subsequent addresses. They point out, however, that clause 2, relating to what is usually described as the freedom of the seas, is open to various interpretations, some of which they could not accept. They must therefore reserve to themselves complete freedom on this subject when they enter the peace conference.

Further, in the conditions of peace laid down in his address to Congress of January 8, 1918, the President declared that invaded territories must be restored as well as evacuated and freed. The Allied Governments feel that no doubt ought to be allowed to exist as to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies, and their property (by the forces of Germany?), by land, by sea, and from the air."

I told George that I was afraid his attitude at yesterday's meeting had opened the flood gates; Clemenceau, Sonnino would have elaborate memoranda to submit containing their objections to the President's fourteen points, and that I doubted whether Clemenceau would accept (another version?) [*the answer*] drafted by British which was in marked contrast to the position taken by George yesterday.

It [at once] developed at the conference that Clemenceau was having prepared an elaborate brief setting forth France's objections to the President's fourteen points. I promptly pointed out to Clemenceau that undoubtedly Sonnino was preparing a similar memorandum and that if the Allied Governments felt constrained to submit an elaborate answer to the President containing many objections to his program it would doubtless be necessary for the President to go to Congress and to place before that body exactly what Italy, France, and Great Britain were fighting for and to place the responsibility upon Congress for the further continuation of the war by the United States in behalf of the aims of the Allies. As soon as I had said this George and Clemenceau looked at each other significantly.

Clemenceau at once abandoned his idea of submitting an elaborate memorandum concerning the President's fourteen points and apparently accepted the proposed answer drafted by the British. I suggest[ed] that the word "illegal" be placed before the words "damage done to the civilian population of the Allies," in the last sentence of draft of proposed answer. George accepted this suggestion but Clemenceau stated [that he] preferred that the draft

⁴² Document 307.

should be left as it was. I believe that the suggestion would be accepted by all if the President sees fit to insist upon it. I am not entirely clear yet that this is necessary.

I ascertained that George and Clemenceau believed that the terms of the armistice both naval and military were too severe and that they should be modified. George stated that he thought it might be unwise to insist on the occupation of the east bank of the Rhine, Clemenceau stated that he could not maintain himself in the Chamber of Deputies unless this was made a part of the Armistice to be submitted to the German forces and that the French Army would also insist on this as their due after the long occupation of French soil by the Germans, but he gave us his word of honor that France would withdraw after the peace conditions had been fulfilled. I am inclined to sympathize with position taken by Clemenceau.

I pointed out the danger of bringing about a state of Bolshevicism in Germany if terms of armistice were made too stiff and the consequent danger to England, France and Italy. Clemenceau refused to recognize that there was any danger of Bolshevicism in France. George admitted it was possible to create such a state of affairs in England and both agreed that anything might happen in Italy.

I asked Clemenceau where he thought it would be wise to hold the peace conference. He answered Versailles, but however, did not argue with us when George stated that he and I had agreed on Geneva. I stated that I thought this matter should be discussed later. Upon leaving the conference, George and I again agreed that the conference had better be held in neutral territory than in a belligerent country and I still have in mind to urge Lausanne.

It was agreed that this afternoon we would discuss, first, results [*terms?*] of an armistice with Austria; second, the terms of the armistice with Turkey (with this I explained we have nothing to do); three, the terms of the armistice with Germany. It was agreed that there should be a meeting at my headquarters tomorrow morning of Clemenceau, George, Orlando, Marshal Foch and myself, with Geddes at hand to advise concerning naval questions. Uninterruptedly, I am in constant consultation with our military and naval authorities.

In the event that answer drafted by British and quoted above is adopted by Allies as their answer to your communication I would strongly advise your accepting it without alteration.

HOUSE

415

*The President to the Special Representative (House)*⁴³

[Telegram—Extract]

WASHINGTON, October 31, 1918.

I fully and sympathetically recognize the exceptional position and necessities of Great Britain with regard to the use of the seas for defence both at home and throughout the Empire and also realize

⁴³ President Wilson's Files; For. Rel., 1918, supp. 1, p. 427.

that freedom of the seas needs careful definition and is full of questions upon which there is need of the freest discussion and the most liberal interchange of views, but I am not clear that the reply of the Allies quoted in your 12 definitely accepts the principle of freedom of the seas and means to reserve only the free discussion of definitions and limitations. . . . Terms one, two, three, and fourteen are the essentially American terms in the programme and I cannot change what our troops are fighting for or consent to end with only European arrangements of peace. Freedom of the seas will not have to be discussed with Germany if we agree among ourselves beforehand but will be if we do not. Blockade is one of the many things which will require immediate redefinition in view of the many new circumstances of warfare developed by this war. There is no danger of its being abolished.

WOODROW WILSON

416

*The Secretary of State to the Chargé in Great Britain (Laughlin)*⁴⁴

[Telegram]

WASHINGTON, October 31, 1918—7 p.m.

2550. For Sheldon [from War Trade Board]:

No. 1538. For your information following is statement of present scope of the jurisdiction of the interallied enemy trading license conference.

The United States and Italy have agreed fully to the original proposals of the United States Government. Such proposals cover all cases where one of the associated governments desires to authorize a transaction in which enemy persons, persons on the statutory list or persons on the confidential list, were involved, with the exceptions set out in the original proposal. The original proposals of the United States were outlined to you in Department's 2 our 754 July 2nd.

France has agreed to submit all cases covered by our original proposal except transactions with listed persons not enemy nationals, where execution of the transaction has commenced. They have further defined this as: 1. Cases "where payment has been made". We have assumed in our assenting answer to the French that by this is meant cases where the French applicant for license has paid for merchandise, etc., and now desires to receive the merchandise for which he has paid; 2. Cases "where a shipment has already arrived at its destination"; and 3. Cases "where shipment is in transit". We have taken the assumption that in either of these latter two

⁴⁴ File No. 763.72112/10727a; For. Rel., 1918, supp. 1, p. 1073.

The same, *mutatis mutandis*, on the same date except for omission of last paragraph, to the Ambassador in France (No. 6123) for McFadden (No. 409). (File No. 763.72112/10727b).

situations if the merchandise is moving to France and payment had not been made by the French national involved, no payment would be allowed. We have assented to these exceptions as cases of this sort are regularly licensed by the War Trade Board when application is made and there would seem to be no reason for insisting upon submission to the conference.

The British have agreed to the original proposals with the following exceptions: They reserve from submission to conference transactions involving importation into Great Britain, and purely financial transactions, where a person on the confidential list in Norway Sweden Denmark or Holland is involved. The reason for such reservation, it is stated, lies in administrative difficulties owing to the vesting of jurisdiction over enemy trade matters in several departments of the government. This we recognize would produce a serious difficulty but we feel that it should be overcome.

You are instructed to take part again in formal conference. Each government will submit cases up to the limit to which it has agreed.

The situation with reference to Italy and France is permanently satisfactory. With reference to Great Britain, we are still convinced of the great desirability of complete agreement on their part. Our reason for this conviction is not so much a desire to prevent the practical difficulties which may arise from uncoordinated action which, in the case of the comparatively slight reservations which the British make would be probably negligible, but because of the extremely salutary effect upon trade relations between the allies which a completely open policy will have, especially with a view to after the war relations. It is for this reason that we do not feel able to accept without protest the British proposal that their method be given a trial for a few months and then if it is not satisfactory that negotiations be reopened.

We confirm our instructions to you in Department's 1249 our 1182 September 7, 2 p.m., to urge upon the British Government that they give full agreement to the original conference proposal. The French and Italian delegates are recommending to their governments that similar instructions be sent to their respective delegates in London. Confer with the French and Italian delegates in London and act in concert with them. We feel that strong pressure from Italy France and the United States will produce the desired result.

LANSING

417

*The Special Representative (House) to the Secretary of State*⁴⁵

[Telegram]

PARIS, November 3, 1918—9 p.m.

[Received November 3—8.57 p.m.]

41. My entire time outside of the scheduled conferences of Prime Ministers has been spent in working for a solution of the difficulties mentioned in my number 38. It had become very clear that the con-

⁴⁵ File No. 763.72119/9051; For. Rel., 1918, supp. 1, p. 455.

ference to be held at my headquarters at 3 o'clock this afternoon was to be a critical one and I was fully prepared to exert strong pressure in order to secure from the Allies an acceptance of the President's fourteen points set forth in his speech of January 8th 1918 and of his subsequent addresses.

At 3 o'clock this afternoon Lloyd George, Clemenceau, Orlando and Hymans (representing the Belgian Government) met with me at my headquarters for a talk over the fourteen points. George opened the discussion by stating that he was prepared to stand by the proposed answer cabled in my number 12. I pointed out that the following phrase of this answer was not satisfactory to the President inasmuch as it was not clear that the Allies accepted the principle of the freedom of the seas: "They must therefore reserve to themselves complete freedom on this subject when they enter the peace conference". I then read to the conference a paraphrase of the President's telegram to me dated October 31, in answer to my number 12. Clemenceau then stated "We accepted the principle of the freedom of the seas," and turning to George he said "You do, also, do you not?" George answered "No, it is impossible for any British Prime Minister to do this." He then stated "We are quite willing to discuss the freedom of the seas in the light of the new conditions which have arisen by reason of the war". I stated "Why do you not say so?" He said "I am perfectly willing to say that to the President and I will instruct the British Ambassador in Washington to so inform the President." I said "I would prefer to have you so inform me and I will inform the President."

I am now in receipt of the following letter

"British Embassy, Paris, November 3rd., 1918. My Dear Colonel House: I write to confirm the statement I made in the course of our talk this afternoon at your house when I told you that 'We were quite willing to discuss the freedom of the sea in the light of the new conditions which have arisen in the course of the present war.' In our judgment this most important subject can only be dealt with satisfactorily through the freest debate and the most liberal exchange of views.

I send you this letter after having had an opportunity of talking the matter over with the Foreign Secretary who quite agrees. Ever sincerely, D. Lloyd-George."

The Belgian representative proposed a number of modifications of point number 3. None of these received approval. One change, however, was requested by the Allied representatives to point 3. They wish it to be understood that the words ["so far as possible"] qualify the entire point. This they suggest could be accomplished by transposing them to the beginning of the point, so that point 3 would read "So far as possible the [removal], et cetera, et

cetera." I assented to this suggestion and stated that I thought it would probably be unnecessary for the President to point out this change to Germany. All other points were agreed upon without reservation.

Situation now is therefore as follows. The proposed answer cabled you in my number 12 will be sent to the President along with the terms of the military and naval armistice to be offered to Germany. The President will then send the answer received from the Allies to the German Government with the statement that the military authorities of the Allies and the United States are prepared to receive the German military authorities and to communicate to them the terms upon which an armistice will be granted to Germany. The letter quoted above that I received from George must not be published unless it becomes necessary. If I do not hear from you to the contrary, I shall assume that you accept the situation as it now is. This I strongly advise. Any other decision would cause serious friction and delay.

A conference will be held at my headquarters Monday morning at 11 o'clock. In the afternoon at 3 o'clock a full conference to be held at Versailles. At these meetings the terms of the naval and military armistice to be offered Germany will be finally agreed upon.

EDWARD HOUSE

418

*The Special Representative (House) to the Secretary of State*⁴⁶

[Telegram]

PARIS, November 4, 1918, 4 p.m.

[Received 4.24 p.m.]

42. For the President.

A meeting was held at my headquarters this morning at 11 o'clock attended by Lloyd George, Clemenceau, Orlando, Doctor Beneš (representing the Czecho-Slovaks) and myself. Marshal Foch and the Allied military and naval authorities were in attendance also.

The conference agreed to the following resolutions:

"1. To approve the plan of operations against Germany through Austria proposed by Marshal Foch, General Bliss, General Wilson and General di Robilant.

2. That Marshal Foch shall have the supreme strategical direction of operations against Germany on all fronts including the southern and eastern.

3. That the military advisers of the British, French and Italian and the United States Government shall immediately examine the following:

⁴⁶ File No. 763.72119/9052; For. Rel., 1918, supp. 1, p. 460.

(a) The possibility of taking immediate steps to send a force which shall include the Czecho-Slovak forces on the French and Italian fronts to Bohemia and Galicia with the following [objects]: to organize these countries against invasion by Germany; to prevent the export to Germany of oil, coal or any other material, and to render these available to the Allied forces; to establish airdomes for the purpose of bombing Germany.

(b) The immediate cooperation of General Franchet d'Espérey in these objects."

The procedure to be adopted by the Supreme War Council this afternoon was agreed upon as follows:

"The Supreme War Council decide as follows: (a) to approve the attached terms for an armistice with Germany; (b) to communicate the terms of armistice to President Wilson inviting him to notify the German Government that the next step for them to take is to send a *parlementaire* to Marshal Foch who will receive instructions to act on behalf of the Associated Governments; (c) to communicate to President Wilson the attached memorandum [of] observations by the Allied Governments on the correspondence which has passed between the President and the German Government, in order that they may be forwarded to Germany together with the communication in regard to an armistice; (d) to invite Colonel House to make the above communications on their behalf to President Wilson; (e) to authorize Marshal Foch to communicate the terms as finally approved to envoys properly accredited by the German Government; (f) to associate a British admiral with Marshal Foch on [the] naval aspects of the armistice; (g) to leave to the direction of Marshal Foch and the British admiral [details] in regard to minor technical points in the armistice."

The memorandum of observations by the Allied Governments on the correspondence which has passed between the President and the German Government [garbled group] now reads as follows:

"The Allied Governments have given careful consideration to the correspondence which has passed between the President of the United States and the German Government. Subject to the qualifications which follow they declare their willingness to make peace with the Government of Germany on the terms of peace laid down in the President's address to Congress of January 1918, and the principles of settlement enunciated in his subsequent addresses. They must point out, however, that clause 2, relating to what is usually described as the freedom of the seas, is open to various interpretations, some of which they could not accept. They must therefore reserve to themselves complete freedom on this subject when they enter the peace conference.

Further, in the conditions of peace laid down in his address to Congress of January 8th, 1918, the President declared that invaded territories must be restored as well as evacuated and freed; the Allied Governments feel that no doubt ought to be allowed to exist as to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian

population of the Allies and their property (by the forces of Germany) [*sic*] by the aggression of Germany by land, by sea and from the air."

Main change in this from draft cabled you in my number 12 is the insertion of the words "by the aggression of Germany" in the last sentence. This, with Lloyd George's letter quoted in my number 38 [41] makes the situation quite satisfactory for the moment. The terms of the military and naval armistice will be finally adopted this afternoon at Versailles and will be cabled you in full as soon as they have been adopted. Lloyd George leaves today at 2 o'clock for England, accordingly he will not be present at the conference this afternoon.

EDWARD HOUSE

419

*The Secretary of State to the Swiss Minister (Sulzer)*⁴⁷

No. 286

WASHINGTON, November 5, 1918.

SIR: I have the honor to request you to transmit the following communication to the German Government:

"In my note of October 23, 1918, I advised you that the President had transmitted his correspondence with the German authorities to the governments with which the Government of the United States is associated as a belligerent, with the suggestion that, if those governments were disposed to effect peace upon the terms and principles indicated, their military advisers and the military advisers of the United States be asked to submit to the governments associated against Germany the necessary terms of such an armistice as would fully protect the interests of the peoples involved and ensure to the associated governments the unrestricted power to safeguard and enforce the details of the peace to which the German Government had agreed, provided they deemed such an armistice possible from the military point of view.

"The President is now in receipt of a memorandum of observations by the Allied Governments on this correspondence, which is as follows:

"The Allied Governments have given careful consideration to the correspondence which has passed between the President of the United States and the German Government. Subject to the qualifications which follow they declare their willingness to make peace with the Government of Germany on the terms of peace laid down in the President's address to Congress of January 1918, and the principles of settlement enunciated in his subsequent addresses. They must point out, however, that clause two, relating to what is usually described as the freedom of the seas, is open to various interpretations, some of which they could not accept. They must, therefore, reserve

⁴⁷ File No. 763.72119/3813 k; For. Rel., 1918, supp. 1, p. 468.

to themselves complete freedom on this subject when they enter the peace conference.⁴⁸

'Further, in the conditions of peace laid down in his address to Congress of January 8, 1918, the President declared that invaded territories must be restored as well as evacuated and freed, the Allied Governments feel that no doubt ought to be allowed to exist as to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea and from the air.'"

I am instructed by the President to say that he is in agreement with the interpretation set forth in the last paragraph of the memorandum above quoted. I am further instructed by the President to request you to notify the German Government that Marshal Foch has been authorized by the Government of the United States and the Allied Governments to receive properly accredited representatives of the German Government, and to communicate to them the terms of an armistice.

Accept [etc.]

ROBERT LANSING

420

*The Secretary of State to the Ambassador in Spain (Willard)*⁴⁹

[Telegram]

WASHINGTON, November 5, 1918—4 p.m.

1771. For Chadbourne [from War Trade Board]:

No. 354. Your 353, Embassy 1985, Oct. 23, 6 p. m. You are authorized informally to discuss with Ventosa the matter of lifting cotton and petroleum and the imposition of bunker control to insure regular service between Spain and the United States. It is important that your conversation be entirely informal in character and designed to ascertain the attitude of the Spanish Government without however committing ourselves to any definite policy or implying that our right to impose bunker control is in any way dependent on Spanish acquiescence.

LANSING

⁴⁸ President Wilson stated in part as follows in an address of Sept. 19, 1919:

"One of the principles that I went to Paris most insisting on was the freedom of the seas. Now, the freedom of the seas means the definition of the right of neutrals to use the seas when other nations are at war, but under the League of Nations there are no neutrals, and, therefore, what I have called the practical joke on myself was that by the very thing that I was advocating it became unnecessary to define the freedom of the seas. All nations are engaged to maintain the right, and in that sense no nation can be neutral when the right is invaded, and, all being comrades and partners in a common cause, we all have an equal right to use the seas. To my mind it is a much better solution than had occurred to me, or than had occurred to anyone else with regard to that single definition of right."

⁴⁹ File No. 652.119/1996; For. Rel., 1918, supp. 1, p. 1713.

421

*The Solicitor for the Department of State (Woolsey) to the Counselor
for the Department of State (Polk)*⁵⁰

November 11, 1918.

DEAR MR. POLK: I wish to call your attention to the yellow [telegram] from London, of October 16, and the proposed reply in respect to routing vessels and examination of cargoes by the belligerents. I am not familiar with all of the developments in the situation, but I am familiar with the institution of the plan which is now being superseded. The present plan is set forth in Paragraph 2 of the yellow [telegram] and was based upon our correspondence with Great Britain in respect to the diversion and examination of vessels in her ports while we were neutral. Under the old plan she continued to do this, and we took no part in it, on account of our position in the diplomatic correspondence. Under the new plan adopted with some modifications by the War Trade Board, the United States is integrated with the Allies in this matter. If it is adopted by the United States, our contentions while neutral, and the claims of American citizens admitted by us to be good at the time, are, it seems to me, cast aside. I doubt whether the Government as a matter of policy, or law, ought to or can invalidate such claims as may be good, by action of this kind. This was the view entertained by Mr. Anderson, when he considered the subject. Another objectionable feature is that the new plan proposed to have an examination port in the Panama Canal Zone—a procedure which I understood the Department had opposed consistently, inasmuch as it is clearly an exercise of belligerent rights in the Zone.

The new plan in substance proposes to set up examination ports in the United States, Panama Canal, or its other possessions, to which vessels not calling at the United States in the ordinary course, are to be compelled to touch, for purpose of search. At each of these examination ports, the search is to be carried on jointly by the United States and British officers. These authorities are to furnish to the "Allied Blockade Committee, the Enemy Exports Committee, and the Admiralty, the information these bodies require for Blockade purposes." The vessels are, in any case, not to be "cleared without concurrence from London."

It seems to me this matter is important enough to call to your special attention.

L. H. W[OOLSEY]

⁵⁰ File No. 763.72112Sa/116; For. Rel., 1918, supp. 1, p. 1010.

422

*The Secretary of State to the Minister in Switzerland (Stovall)*⁵¹

[Telegram]

WASHINGTON, November 11, 1918—7 p.m.

3316. Legation's 5490, Oct. 30, 3 p.m. 238 from Dresel. Department does not desire that the United States should make a formal demand upon the Swiss Government that that Government itself recognize the statutory list of the United States, although no objection is perceived to the S[ociété] S[uisse de] S[urveillance Economique], a private institution acting primarily as consignee of goods received from the Associated Governments, recognizing our statutory list. It is suggested, therefore, that the last phase of the French project of note to the Swiss Government be changed to read substantially as follows: "The four governments have the honor to propose to the Federal Government that the Federal Government withdraw any objections which it may have entertained to the acceptance by the S.S.S. of the annexed proposal." Provided this change is acceptable to your British, French and Italian colleagues, you are authorized to join with them in presentation of the note as amended in accordance with the foregoing. This cable is sent after conference with Dresel and he approves of the same. A copy of this cable is being sent to McFadden.

LANSING

423

*The Secretary of State to the Chargé in Great Britain (Laughlin)*⁵²

[Telegram]

WASHINGTON, November 12, 1918—6 p. m.

2765. For Sheldon [from War Trade Board]:

No. 1612. Your 1819, Embassy 3498, November 7. This cable seems to us to substantiate the fears which we have entertained lest the British in their conduct of the Dutch negotiations proceed to commit us to important policies without our previously being consulted and indeed when these policies are known not to accord to our views. The letter of Worthington Evans, which you quote, states "the Associated Governments are prepared to recognize that the export of some commodities from Holland to Germany may be necessary in order to enable Holland to obtain in exchange some necessary supplies" and the letter proceeds by clear

⁵¹ File No. 763.72112/10609; For. Rel., 1918, supp. 1, p. 1077.

⁵² File No. 611.419/2718; For. Rel., 1918, supp. 1, p. 1561.

implication to acquiesce in the export to Germany of fresh vegetables, fish, milk and cattle. This letter purporting to speak for the associated governments was sent without prior reference to us, although we had by our No. 1469, Department 2341, October 22, 2 p. m. stated our views to be "that the objective of the associated governments should be the entire cessation of all exports to Germany and the making available to them of Holland's entire exportable surplus". This cable further pointed out that we felt that the Allies could supply all of Holland's import requirements except possibly iron and steel and that even these might be spared by the Allies in view of the importance of making Holland entirely independent of Germany.

Irrespective of whether developments of the last few days might lead us to modify somewhat our views as expressed in our 1469, you will, we think, appreciate the anxiety which we feel and which we have frequently expressed to you lest again as has several times happened in the past we will find ourselves committed to a program which we do not approve and in regard to which we are not even given an opportunity to express our views.

With reference to substance of Evan's letter, the proposition to have Dutch guarantee immediately 50,000 kilograms quinine and 400 tons of bark and furthermore that Government shall undertake after December 15th to furnish quinine and bark supplies stipulated in contract of Schalkwyx if that contract has not by that date been formally ratified is approved.

With reference to exports to Germany we had been disposed to adhere to the views previously expressed until cessation of hostilities, or at least that all exports of foodstuffs should be under our control. We realize that in view of recent developments the importance of this has much diminished and in view of the embarrassment which would be created in modifying at this date Evan's letter, we are prepared to concur therein.

With reference to Holland obtaining from Germany necessary supplies we feel that we are more than ever in a position to meet all of Holland's requirements, particularly as the situation of iron and steel is rapidly changing so that we expect to be able to permit exports thereof more freely.

It must be clearly understood that our imports from the Dutch East Indies of commodities regarded as unessential must be reserved for our own definition. There is no formal arrangement between us and the Dutch East Indies, nothing but a trading basis. The facilitation of our imports into Holland must be understood to include a reservation as to article, price, method of payment and port of shipment. You will realize that the transition from state of war to state of armistice carries with it great problems in international transportation and industry which requires freedom of action if our interests and the interests of the allies and neutrals are to be properly conserved.

424

The Secretary of State to the Chargé in Great Britain (Laughlin) ⁵³

[Telegram]

WASHINGTON, November 15, 1918.

2826. For Sheldon [from War Trade Board]:

No. 1596. Dept's 2661. Our 1207, November 6, with reference to the joint certification by British and American Consuls in South America, was prepared by us on September 13, but without our knowledge was held up in the Department, for consideration, until yesterday. In view of your subsequent cables in this connection, disregard our 1207. The following is text of circular cablegram dispatched by Department to American Consuls in South America.

"British Consuls at South American ports of departure now certify manifests of Scandinavian and Dutch vessels proceeding from South America to Scandinavia and Holland. Henceforth such certification will be made jointly by British and American Consuls, at ports where both countries have Consular Representatives and by the Consular Representative of either country at ports at which only one of these countries has a Consular Representative. You are authorized by Department to carry out such instructions in this connection as may be issued to you by the American Embassy at London."

We suggest that you dispatch a circular cable to American Consuls at South American ports, explaining to them in detail the procedure to be followed and the functions to be performed by them. Such cablegram should be directed to the American Consulates at Barranquilla, Colombia; Guayaquil, Ecuador; Callao-Lima, Peru; Valparaiso, Chile; Buenos Aires, Argentine; Montevideo, Uruguay; Rio de Janeiro, Brazil; Georgetown, British Guiana, with instructions to each to repeat to necessary Consuls in their respective territories. Please furnish us with text such circular cable.

We assume that at ports at which both countries are not represented, manifests will be examined by the Consular Officer of the country that is represented.

LANSING

⁵³ File No. 600.119/1686a; For. Rel., 1918, supp. 1, p. 1012.

425

*Agreement between the Netherland Government and the "Associated Governments", November 25, 1918*⁵⁴

AGREEMENT BETWEEN THE ROYAL NETHERLANDS GOVERNMENT AND THE
BRITISH, FRENCH, AND ITALIAN GOVERNMENTS AND THE WAR TRADE
BOARD OF THE UNITED STATES

REFERRED TO HEREAFTER FOR CONVENIENCE AS THE ASSOCIATED
GOVERNMENTS

1. As soon as employment is reasonably assured all Dutch shipping shall at once resume sailing and shall not lie up. The routes to be followed, the arrangements as to outward cargoes and the regulations for examining cargoes and passengers and crews shall be the subject of consideration forthwith.

Subject to the completion of such arrangements the Associated Governments will use their best endeavours to provide bunkers and ship stores and clear vessels with the utmost despatch. The question of carrying passengers outward from Europe to the United States to be left for further consideration.

2. It is a condition of this Agreement that the Royal Netherlands Government will undertake that there shall be no request for the return of Dutch shipping at present employed by the Associated Governments until the Associated Governments have arrived at a satisfactory Agreement with the Dutch shipowners as to the employment of the said shipping by the Associated Governments on time charter or otherwise. The Royal Netherlands Government will undertake to facilitate such arrangement.

3. It is a condition of this agreement that an arrangement shall be concluded within thirty days for the provision of loans and/or other mutually satisfactory financial arrangements for the Associated Governments on terms to be agreed with the British Treasury and the French, Italian and United States representatives.

4. The Royal Netherlands Government will recognise the Agreement to be made between the Netherlands Oversea Trust and the Governments of Great Britain, France and Italy and the War Trade Board of the United States and consents to the control of imports and exports provided for in such agreement. The Royal Netherlands Government will take the necessary steps to maintain an effective prohibition of exports, as provided for in that Agreement, to the Central Powers of all goods imported into the Netherlands under that Agreement and the manufactures and products thereof (includ-

⁵⁴ The text here given is that of the War Trade Board's confidential print; For. Rel., 1918, supp. 1, p. 1574.

ing bye-products and waste) and (unless otherwise agreed) *articles similaires*, and will do everything in its power to ensure that the Netherlands Oversea Trust shall continue in existence during the currency of the N.O.T. agreement exercising such functions as may be necessary to perform the terms of that agreement.

5. Subject to their own requirements the Associated Governments will facilitate the importation into the Netherlands of the rations indicated in the annexed schedule.

The granting of export licenses by any of the Associated Governments shall be conditional upon the fulfilment of such terms regarding port of delivery, price, time and other arrangements of sale as the Associated Government having jurisdiction thereover may see fit to require.

Such rations may be increased from time to time with the sanction of the Associated Governments, who will take into favourable consideration any applications that may be made.

6. The imports into the Netherlands of articles dealt with by Allied Committees or Executives as well as Nitrates imported into Java shall be purchased through or with the consent of these bodies, when such imports originate outside the Associated Countries. The Associated Governments retain the right however to require if they so decide, that purchases of such articles in the countries of the Associated Governments shall be made in the same manner and in this case will notify the Royal Netherlands Government.

Notification of all such purchases shall be given by the Royal Netherlands Government to such Committees or Executives.

An arrangement is to be come to between the Royal Netherlands Government and the Oils and Seeds Committee regarding the sale and control of oils and seeds from the Dutch Colonies; and regarding the sale and control of other articles produced in the Dutch Colonies and dealt with by Allied Executives or Committees, these shall be dealt with as may be mutually agreed between the Royal Netherlands Government and the Associated Governments. Such arrangement is also subject to the approval of the War Trade Board of the United States, so far as such sales and control may relate to the United States. A Dutch representative to join the Oils and Seeds Committee as a member of the Committee. The question of Dutch representation in Allied Committees or Executives which deal with other commodities of which an important quantity is produced in the Netherlands or her Colonies shall be considered.

7. It is a condition of this Agreement that an Agricultural Agreement shall be made within thirty days hereof with the Nederlandsche Uitvoer Maatschappij and shall be assented to by the Royal Netherlands Government.

8. Statistics of Dutch exports and imports shall be provided by the Royal Netherlands Government in such manner and at such times as shall be agreed upon.

9. Statistics shall be communicated forthwith to the Associated Governments of live stock in the Netherlands and of stocks in the Netherlands of such commodities as the Associated Governments shall require on which the rations are based.

10. Whenever any imports into the Netherlands of raw materials are specially licensed by the Associated Governments or any of them, for the express purpose of return in the form of manufactures or of packing or any other form, the Royal Netherlands Government will give licences for such export from the Netherlands. In the case of imports of non-rationed articles 5% of the raw material as imported may be retained for home consumption in the Netherlands. The Royal Netherlands Government will be previously notified regarding the terms upon which the imports referred to will be made.

11. In the event of any portion of imported rations being requisitioned by the Royal Netherlands Government the same shall remain under the control of the Netherlands Oversea Trust in respect of their distribution and ultimate destination.

12. Without prejudice to the obligation of the Royal Netherlands Government to maintain the prohibitions of export specified in Clause 4 hereof and except as may be subsequently agreed or is provided by Clause 13 of this Agreement and by the Fishery Agreement, no exports shall take place to the Central Powers of fodders, fertilisers or foodstuffs of any kind including animals alive⁵⁵ or dead and the products thereof, sugar whether in natura[1] or in sugar-containing articles, hay, straw, seeds (except as agreed) or manure, technical fats, bone grease or soap (except 130 tons of hard soap per month), bulbs (except bulbs for horticultural purposes which may be exported to the Central Powers on such terms as may be provided in the new Agricultural Agreement); and leather hides and skins (until the treaties of peace are signed between all of the Associated Governments on the one hand and all of the Central Powers on the other hand).

13. The Royal Netherlands Government declaring that it is necessary for them to make certain exports to the Central Powers in order to obtain essential supplies from those countries, the Associated Governments will not object to exports being made of the following commodities in quantities not exceeding those specified below.

⁵⁵ See annex 2, *infra*.

(a) 1,000 tons of offals may be exported per annum to the Central Powers; the character of offals to be defined in the new Agricultural Agreement.

(b) The export of seeds and flax to the Central Powers and to the Associated Countries will be considered in connection with the new Agricultural Agreement.

(c) The return of iron and steel scrap or [of] iron and steel imported from the Central Powers and from the Associated Countries will be considered.

(d) The export of milk and milk products to the Central Powers will be dealt with under the new Agricultural Agreement but shall not exceed 17% of the total export from Holland in terms of condensed milk, provided that not more than 4,400 tons in terms of condensed milk may be exported to the Central Powers within twelve calendar months.

(e) Vegetables and fruit may be exported to the Central Powers as provided in the new Agricultural Agreement save that no fruit pulp or potatoes shall be exported in any form except as may have been previously agreed.

14. Any deficiency in respect of any article owing to the Associated countries under the existing Agricultural Agreement to be made good before the article in respect of which such deficiency exists may be exported to any other country, but export may be made to Belgium and the evacuated districts of France with the assent of the Government of the country to which the deficiency is owing.

15. Subject to the domestic requirements of the Netherlands and consistently with the terms of this Agreement the Royal Netherlands Government will place no restrictions upon and will continue to give all facilities for exports from the Netherlands to the Associated countries and Belgium and the evacuated districts of France, and, if desired, by the Associated Governments, to the occupied districts of Germany.

16. The obligations of the War Trade Board of the United States (an administrative Agency acting pursuant to authority conferred upon it by the President of the United States pursuant to Acts of Congress, and whose powers are administrative and pertain wholly to the United States domestic and internal affairs) are limited under this Agreement to granting licences for and facilitating the export of the articles enumerated in the annexed ration list, during the currency of this Agreement, and in accordance with its terms, in so far as such articles are not required for consumption in the United States or in nations associated with the United States in the War, or to meet other obligation of the United States.

17. The trade relations between the United States and the Dutch Colonies will be discussed forthwith by the authorised representatives of the respective Governments with a view to arrive at a mutually satisfactory agreement.

18. This Agreement shall come into force upon the execution thereof, and shall continue for the period of twelve calendar months, unless previously terminated by mutual agreement; subject, however, to the right of any one of the Associated Governments or of the Royal Netherlands Government to withdraw from this Agreement upon thirty days notice. Such termination shall not apply to subsidiary agreements which shall be subject to their own termination clauses.

F. LEVERTON HARRIS

J. C. CHARPENTIER

F. GIANNINI

UNITED STATES WAR TRADE BOARD,

L. P. SHELDON

E. HELDRING

November 25th, 1918.

[Annex 1]

DUTCH RATIONS

GENERAL CONDITIONS

1. The figures of rations set out in the following schedule are the maxima beyond which it is agreed that imports shall not take place: importation is subject to the ability of Holland to lift the rations with the tonnage at her disposal.

Imports of rationed goods from all sources, including the Central Powers, shall be charged against the appropriate rations.

2. All rations are to date from the 1st October 1918, imports reaching Holland on and after that date being charged against the appropriate rations.

3. The annual quantities to be divided into equal quarterly quantities except for:—

(a) benzine, gas oil, mica, for which an annual ration is to be fixed, and

(b) goods which only, or for the greater part, arrive from South America, the Far East and Australia, for which a half-yearly ration to be fixed.

4. Imports of any article, except those mentioned in paragraph 3 (b) and except so far as is otherwise specifically provided in the schedule to be allowed to exceed in any quarter, or in any period of six months the quantity fixed as ration by 25%, on condition that the excess is deducted from the ration for the next quarter, or next period of six months.

5. If in any quarter, or in any period of six months, the fixed three-monthly or half-yearly quantity of any article is not fully

imported, no objection to be made, except as specifically provided in the hides, leather and tanning materials agreement, against the deficiency being imported in the next quarter, or next period of six months.

SCHEDULE OF DUTCH RATIONS

Commodity	Yearly ration (all figures in metric tons unless otherwise stated)	Remarks
Aluminum and manufactures	50	
Animal hair and bristles, including human hair.	50	
Annatto seed	25	
Antimony:		
Regulus	20	
White metal and other antifriction metals.	100	
Type metal	60	
Asbestos and manufactures	600	No crocidolite.
Asphalt	1, 000	
Benzine and petrol	9, 000	No import in tins.
Bicycles, motor cycles, motor cars, and parts.		Applications to be dealt with on their merits.
Borax and boracic acid.	600	
Capoc	1, 000	Increase to 1,500 tons to be considered.
Calcium carbide.	6, 000	To be drawn from Scandinavia.
Casoid, biscuits, and flour. . . .	2½	
Castor oil	250	
Cereals for breadmaking:		
Wheat, rye, and products	225, 000	} Ration from Oct. 1; last quarter's ration not to be anticipated.
Other breadmaking cereals	100, 000	
Chemicals		Applications to be dealt with on merits.
Cinchona bark	50	
Cocoa beans	8, 000	Chocolates to count at double weight against cocoa beans ration.
Coir yarn	750	
Cod-liver oil	20	
Coffee	35, 000	
Copper, copperware, and manufactures.	4, 000	
Corkwood	1, 500	
Cotton and cotton goods	24, 000	2,000 tons extra if from Dutch Indies.
Fertilisers:		
Phosphate rock	40, 000	
Pyrites	22, 000	
Nitrates	45, 000	
Fibres, vegetable	1, 200	
Fodder:		
Maize	200, 000	} Including oil-cake value of imported oil seeds.
Other kinds.	100, 000	
Fruit, dried.		Question of a ration to be considered.
Furs and fur skins	300	
Gas oil	20, 000	No import in tins.
Graphite, plumbago, and crucibles.	100	Crucibles at ⅓ds of import weight.

SCHEDULE OF DUTCH RATIONS—Continued

Commodity	Yearly ration (all figures in metric tons unless otherwise stated)	Remarks
Grinding materials:		
Amal	100	Carborundum not to exceed 20 tons.
Corundum		
Alundum		
Carborundum		
Grinding stones	400	Up to 200 extra, by export of 7½ tons of soft gums to approved destinations in exchange for each ton of hard gums imported beyond 500.
Abrasive paper and cloth	100	
Gums, hard	500	
Felt not containing wool	900	
Hemp and manufactures	3, 500	Applications to be dealt with on their merits.
Honey	200	
Iron and steel		
Jute and manufactures	5, 000	
Lead and lead ware	4, 000	Jute bags now in Holland to be released, but not to count against the ration.
Liqueurs	10	
Lubricating oil	11, 000	
Machinery		
Magnesite, raw	4, 000	No imports in tins.
Mica and micanite	4	
Mine explosives		
Munitions		
Nickel (including anodes and pure nickel wire).	25	Applications to be dealt with on their merits.
Nickel alloys	50	
Nickel wire for electrical apparatus	10	
Nickel salts	8	
Nuts, kernels, and bananas	1, 000	Ditto.
Oils and fats for edible and technical purposes, including oil seeds and soap at oil value.	80, 000	
Paraffin wax and other waxes	1, 600	
Petroleum	100, 000	
Pyrites (for non-fertilising purposes).	5, 000	Of which only 50,000 tons may be vegetable oils (including the oil content of oil seeds). To be reduced by the amount by which Dutch production of butter exceeds 20,000 tons during the ration year. Last quarter's ration not to be anticipated. The question of additional imports to compensate for exports to Associated Powers may be considered.
Rice, including malt, sago, tapioca, mandioca, arrowroot, and starches.	50, 000	
Rosin	1, 000	

SCHEDULE OF DUTCH RATIONS—Continued

Commodity	Yearly ration (all figures in metric tons unless otherwise stated)	Remarks
Rubber manufactures of the following kinds:		
Rubber sheets	200	{ On condition that release of raw rubber of all kinds from the reems do not exceed 500 tons per annum and on condition that satisfactory control is exercised over worn-out motor tires and tubes.
Surgical and athletic goods . . .		
Dental rubber, and of such further kinds as may be agreed.		
Silk and manufactures	205	
Spirits, crude, in terms of 50% strength.	10, 000	From Java. Not more than 2,500 tons in any quarter, with further limitation that imports in any quarter shall not exceed exports from Holland to approved destinations of manufactured spirits during preceding quarter.
Sulphate of copper	250	
Sulphur	1, 000	Increase to 1,500 tons to be considered.
Talc (powder only)	500	
Tea	5, 000	Increase to 6,000 tons to be considered.
Tin	1, 000	Imports not to commence until present stocks are so reduced as to necessitate further imports.
Tin plate, terne plate, and black plate.		The Associated Governments will endeavor to provide supplies.
Tobacco	22, 000	No export to Central Powers except of 500 million cigars. The question of additional imports to compensate for exports of tobacco manufactures to approved destinations will be considered.
Turpentine	1, 500	
Typewriters	150	
Tyres and tubes:		
Bicycle pieces .	1,000,000	
Motor car {25,000 tyres} pieces .	40, 000	
Motor cycles {15,000 tubes} pieces .	23, 000	
Varnishes and lacquers	150	
Whisky, brandy, and rum	400	
Wine	8, 500	
Wood (exotic) Teak	4, 800	
Cedar	1, 000	
Pockwood	200	
Mahogany		Application for ration of 500 tons to be considered.
Wool at clean value, including manufactures.	6, 000	Woolen manufactures to be charged against ration at import weight.
Zinc and zinc ore		Applications to be considered on merits.

SCHEDULE OF DUTCH RATIONS—Continued

Commodity	Yearly ration (all figures in metric tons unless otherwise stated)	Remarks
Hides, leather, leather manufac- tures, and tanning materials.		To be subject of separate arrange- ment forming part of this agreement.
Materials containing tannin and chrome, not for tanning hides.		Ration of 230 tons to be con- sidered.

[Annex 2]

*The British Representative (Levertton Harris) to the Netherland
Delegate (Heldring)*

FOREIGN OFFICE, S. W. 1.,
25 November, 1918.

DEAR MR. HELDRING: With reference to the Agreement now concluded with the Royal Netherlands Government, I beg to inform you that notwithstanding Article XII of that Agreement the Associated Governments will not raise objection to the export of cattle from the Netherlands to the Central Powers on the following terms, should the Royal Netherlands Government find it necessary to make any such exports.

For every 2 head of cattle exported to Belgium and/or the evacuated parts of France, one head of cattle of similar character may be exported to the Central Powers, but not more than 15,000 head shall be exported to the Central Powers during the next 12 months, and no cows in calf shall be included in such export. The cattle must have arrived in Belgium or France before the export to the Central Powers is to take place.

Similarly, no objection would be raised, should the Royal Netherlands Government find it necessary to make any such export to the Central Powers, of 1,000 horses and 7,000 foals, on condition that 3 horses shall be previously exported to Belgium or to the evacuated parts of France, for each one horse to be exported to the Central Powers, and one foal shall be previously exported to Belgium or the evacuated parts of France for each one foal to be exported to the Central Powers.

It is understood that the exports to Germany mentioned in this letter and in the General Agreement will not take place unless Germany for her part fulfils her obligations to supply Holland with her requirements of coal, salt, iron and potash. Believe me,

Yours sincerely,

F. LEVERTON HARRIS

426

*Executive Order Amending the Executive Order of June 29, 1918, Allotting \$6,000,000 for the Purchase of Swedish Iron Ore, November 27, 1918*⁵⁶

By virtue of the authority vested in me by "An Act Making appropriations to supply deficiencies in appropriations for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and prior fiscal years, and for other purposes", approved April 17, 1917, appropriating the sum of \$100,000,000 "for the national security and defense, and for each and every purpose connected therewith", (and which appropriation was by Act of Congress approved December 15, 1917, "continued and made available until June thirtieth, nineteen hundred and eighteen"), I do hereby amend the Executive Order of June 29, 1918, allotting out of the sum appropriated as aforesaid, \$6,000,000 to be expended by the Secretary of Commerce for the payment of one-third of the purchase price of 2,000,000 tons of Swedish iron ore, so that said order shall read as follows:

"By virtue of the authority vested in me by 'An Act Making appropriations to supply deficiencies in appropriations for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and prior fiscal years, and for other purposes', approved April 17, 1917, appropriating the sum of \$100,000,000 'for the national security and defense, and for each and every purpose connected therewith', (and which appropriation was by Act of Congress approved December 15, 1917, 'continued and made available until June thirtieth, nineteen hundred and eighteen'). I hereby order, that out of said sum so appropriated there be allotted six million dollars (\$6,000,000) to be expended by the Secretary of Commerce in payment to the proper authorities of the Government of Great Britain of one third part of the purchase price (together with the storage and transportation charges and any other expenses incurred in connection with the purchase, storage, and/or transportation to the United States) of 2,000,000 tons of Swedish iron ore, the purchase of which is provided for in the agreement of May 29th, 1918, between the Governments of Great Britain, France and Italy and the Government of Sweden.

"All moneys accruing to the United States on account of the sale or resale or other disposition of the Swedish iron ore hereinabove referred to shall be held subject to the order of the President and disposed of in such manner as he shall direct; and the Secretary of Commerce is hereby authorized to pay or to direct the payment to the proper authorities of the British Government or the proper authorities of the French Government, as the case may be, of such

⁵⁶ Executive Order No. 3010-A.

part of said moneys as shall be necessary to defray one-half of the purchase price of not exceeding 245 tons of Molybdenum Concentrates heretofore purchased or contracted to be purchased by the British Government in Norway during the present war and one-third of the purchase price of not exceeding 41,000 tons of low phosphorous iron ore purchased by the French Government in Sweden during the present war, and, further, to pay or to direct the payment to said authorities of such part of said moneys as shall by the War Trade Board be determined to be the share properly payable by the United States of the purchase price of any other commodity or commodities which, in the opinion of the War Trade Board, have been purchased by said Governments, or either of them, during the present war for purposes connected with the blockade of Germany and her allies and the expense of which should therefore, in the opinion of the War Trade Board, be shared by the United States."

WOODROW WILSON

427

*The Secretary of State to the Chargé in Great Britain (Laughlin)*⁵⁷

[Telegram]

WASHINGTON, November 29, 1918—6 p.m.

3114. For Sheldon [from War Trade Board]:

No. 1737. Embassy's 2865, October 16th, 8 p.m., your 1683.⁵⁸ Plan suggested does not meet with the approval of the Department. We are now in consultation with Department with view to preparing a revised plan.

LANSING

428

*The Consul General at London (Skinner) to the Secretary of State*⁵⁹

[Telegram]

LONDON, December 14, 1918.

[Received 11 p.m.]

Admiralty notice number 1462 announces following amended limits of dangerous area Orkney Isles.⁶⁰ Dangerous area is enclosed by straight lines joining following positions.

⁵⁷ File No. 763.72112 Sa/90; For. Rel., 1918, supp. 1, p. 1012.

⁵⁸ Document 406.

⁵⁹ File No. 841.801/143; For. Rel., 1918, supp. 1, p. 1765.

⁶⁰ The original notice regarding this area, published in the British press on Nov. 16, was not communicated to the Department of State.

Concerning the mining of this area, which was a prolongation westward of the area covered by the notice of Apr. 26, the following statements appear in *The Northern Barrage and Other Mining Activities* (Publication No. 2 of the

- (a) Latitude 59° 20' N., longitude 50' W.
- (b) Latitude 59° 20' N., longitude 2° 4' W.
- (c) Latitude 59° N., longitude 2° 15' 30'' W.
- (d) Latitude 58° 50' N., longitude 50' W.

SKINNER

429

Joint Agreement between the Governments of Great Britain, France, and Italy and the Netherlands Oversea Trust, December 17, 1918 ⁶¹

It is hereby agreed between the Governments of Great Britain, France and Italy hereinafter referred to as the Associated Governments, on the one part, and the Netherlands Oversea Trust, hereinafter referred to as the Trust, on the other part, as follows:—

1. The Associated Governments undertake, subject to the due observance of the provisions of Articles 2 and 3 that vessels on their way to Dutch home ports carrying goods consigned to the Trust and approved by the Associated Governments before shipment will not be detained for reasons connected with the goods except for purposes of examination.

Goods arriving in the Netherlands consigned to the Trust will not be withheld from delivery except where something unforeseen occurs between the time of the approval of the import of the goods by the Associated Governments and their arrival in the Netherlands (as for instance if the consignee has been placed on the Black List). In such case the Associated Governments reserve the right to ask for the goods to be stored until the ratification of the Treaty of Peace; but

Navy Department, Historical Section, Washington. Government Printing Office, 1920), p. 115:

"The eighth excursion was intended as a surprise excursion. Neutral nations had not been notified that Area 'B' was dangerous to shipping, and with this knowledge, enemy submarines were constantly passing through it on their way to the Atlantic. It was accordingly decided not to notify the area but to secretly route all shipping so as to avoid it, with the hope that submarines might still attempt to use it after it had been mined. In order to prevent the enemy observing the mining while it was in progress, an elaborate patrol was arranged, beginning the day before the operation and continuing until after its completion.

"British and American mining squadrons rendezvoused off the Orkney Islands on September 7 and proceeded to carry out the operation. We laid six lines of surface mines across Area 'B' while the British laid one line of surface mines parallel to ours. This was really the first joint operation carried out by the British and American squadrons. On several previous occasions both squadrons had been at sea at the same time, but had not been working side by side, so as to necessitate appointing one officer to command the expedition. On this occasion Admiral Strauss was designated to take general charge of both squadrons while mining was in progress."

^a War Trade Board print; For. Rel., 1918, supp. 1, p. 1584.

Adhered to by the War Trade Board of the United States; letter of adherence printed as an annex hereto.

the Associated Governments promise to restrict, as far as possible, the exercise of this right.

2. The Trust undertake that every consignment of goods which it is proposed to ship to the Netherlands addressed to the Trust from any place of origin whatsoever, excluding Denmark, Norway and Sweden, shall previously be submitted for approval of the Associated Governments except (1) in the case of exports from the United Kingdom or the United States or France or Italy such goods as shall be covered by export licenses issued by the respective Governments of those countries and (2) in the case of exports from countries where the system of letters of assurance is or may be in future operation, such goods as shall be covered by letters of assurance.

3. The Trust undertake as heretofore to issue no permits of importation in respect of any consignments whatsoever, whether of rationed commodities or otherwise, in favour of any companies firms or persons whose names are either on the Published Black Lists or on the Confidential Black Lists of the Associated Governments, of which a copy is from time to time communicated to the Trust, and to allow no delivery directly or indirectly to such companies firms or persons.

4. The Trust undertake that all goods imported on Dutch vessels into the Netherlands from Denmark, Norway and Sweden shall be consigned to the Trust after production of Trust certificates and under Trust conditions and the Trust will take such steps as may be possible to control in the above manner all imports into the Netherlands from Russia and Finland.

All imports of rationed goods from the above countries into the Netherlands on whatever vessels they may be carried shall be counted within the respective rations, and the Trust shall supply monthly returns of such imports.

The Trust shall take all steps in its power to limit the export of goods from the Netherlands to Norway, Sweden and Denmark to those goods which are covered by this Agreement and the Agricultural Agreement. The Trust shall furnish to the Associated Governments monthly returns of all goods exported on Dutch vessels to the said countries.

5. Subject to the terms of Article 23 all goods imported into the Netherlands from overseas shall be consigned to the Trust; and the Trust guarantee the home consumption of all such goods. This guarantee shall apply (without prejudice to any re-export which may be specially permitted by agreement with the Associated Governments) not only to the goods so imported but also to all articles and commodities which may be manufactured or produced therefrom as well as to all receptacles containers and packing material in which

the goods are imported. This guarantee shall extend to both the wholesale and retail trades.

The Trust undertake to control the ultimate destination of all such goods, and such control shall continue even in the event of any goods being requisitioned.

6. The phrase "home consumption" shall be deemed to include re-export to a Dutch Colony.

7. Except in the case of the commodities enumerated in Article 9 [8], the phrase "home consumption" shall also be deemed to include re-export to a neutral country, provided always that such re-export shall not take place through the territory of a country at war with the Associated Governments unless specially authorized by the Associated Governments and provided also that (a) where the importation of similar commodities into such neutral countries from overseas is regulated by an agreement or other arrangement between the Associated Governments and an importing association or other body, the commodities shall not be re-exported from the Netherlands until there shall have been issued in respect of them the certificate or other guarantee provided in such agreement or arrangement and shall be consigned in the manner provided in such agreement or arrangement and (b) where the importation of similar commodities into such neutral countries from overseas is not so regulated, the commodities shall only be re-exported under the same guarantees as are required by the Associated Governments in connection with the importation of similar commodities into such neutral country from overseas or under such other guarantees as may be approved by the Associated Governments upon proposal by the Trust.

8. Except where special authority shall be previously given by the Associated Governments the following commodities shall in no case be re-exported from the Netherlands to neutral countries:—

Grain (rye, barley, oats, maize, rice), also meal and flour thereof.

Meat of all kinds (fresh, prepared and tinned).

Lard.

Tinned fish.

Feeding stuffs, including all articles used as fodder (as for instance barley, oats, maize, rice, bran, green fodder, hay, potatoes, beans, vetches, lupines, peas, lentils, malt, distillers waste, mangle wuzzles) beetroot, beetroot chips, rape seed, linseed, cotton seed, earth nuts, soya beans, oil cakes (also meal).

Hides.

Leather.

Metals and metal manufactures of every description.

Cotton, cotton thread and cotton goods.

Wool and woollen goods.

Mineral and vegetable oils.

Fats of every kind.

Metal goods which are only partly made of metals and of which metal does not constitute the principal and most valuable element will not be considered to fall under this heading unless the metals used therein are of importance for military purposes. The above restriction will not affect articles ordinarily used in the packing of goods exported to neutral countries, such as nails, screws, hoop iron, etc., with exception of tinplate.

9. No re-export shall take place to any country or part of a country in the occupation of a country at war with the Associated Governments except with the approval of the Associated Governments.

10. When so requested by the Associated Governments the Trust will furnish statements of the stocks of any imported commodities (and products thereof) in the Netherlands, and when the Associated Governments have good ground for believing that excessive stocks or stores of such commodities already exist in the Netherlands the Trust will suspend the issue of permits of importation until such stocks have been disposed of or reduced to a figure to be mutually agreed.

11. Except where otherwise agreed, imports of rationed commodities into the Netherlands from all countries shall be counted within the respective rations, and the Trust shall furnish to the Associated Governments monthly reports of all such imports.

12. Whenever it is shown that the imports of any commodities for which a ration is or may be fixed are in excess of the ration, the Trust undertake not to deliver further consignments but to hold them in store until the position of the ration is redressed.

13. The Trust shall take all steps in their power to ensure that no permits for exportation either direct or indirect (especially for the "Finishing Traffic," unless otherwise agreed) shall be given for commodities existing or produced in Holland (and which are thus free from Trust control) of a like nature to commodities consigned to the Trust. The term of a "like nature" shall be interpreted to denote those commodities which fulfil or can reasonably be said to fulfil the same needs as those imported by the Trust ("articles similaires").

The Trust shall oppose the issue of any export license for any such goods, and should any export nevertheless take place the Trust shall refuse to grant consents for any import into the Netherlands of any such goods and shall inform the Associated Governments thereof giving the reasons for such refusal.

14. Consents for the importation of the following commodities shall be granted to actual consumers only: Copper, nickel, antimony.

The Trust shall grant no consents for import of any goods whatever to forwarding agents except for goods of which they were respectively regular importers before the outbreak of war.

Wherever the name of a forwarding agent appears as consignee the Trust shall furnish to the Associated Governments the names of the ultimate receivers of the goods before delivery thereof.

15. When any imports into the Netherlands of raw materials other than rationed are specially licensed by the Associated Governments for the purpose of return in the form of manufactures therefrom to one or other of the Associated countries or in the form of packing for goods destined for one or other of the Associated countries or in any other form indicated, the Trust will do their best to secure the regular return of the whole of such raw materials in the form of manufactures or packing or other form, less in each case a quantity of 5% of the raw materials, which quantity may be retained in the Netherlands for home consumption within the meaning of this Agreement.

When any imports into the Netherlands of raw materials for which rations are or may be fixed are specially licensed by the Associated Governments in excess of such rations for the purpose of return in the form of manufactures therefrom to one or other of the Associated countries or in the form of packing for goods destined for one or other of the Associated countries or in any other form indicated, the Trust will do their best to secure the regular return of the whole of such raw materials in the form of manufactures or packing or other forms.

Notwithstanding anything to the contrary herein contained the Trust will do their best to secure the return to Associated countries of all receptacles and packing material imported into the Netherlands from Associated countries for the express purpose of containing or packing goods destined for export to Associated countries.

16. The Trust shall furnish as and when requested by the Associated Governments periodical statistics of all imports into and exports from the Netherlands as far as these fall under the scope of this agreement.

The Trust shall furnish from time to time to the Associated Governments copies of forms of all Trust contracts.

17. Vessels sailing from Dutch home ports the manifests of which are endorsed with a certificate by the Trust's Committee for Dutch Overseas interests (hereinafter called the Committee) that the cargo consists only of licensed goods, provided they call for examination at a port to be notified to the Trust beforehand in such case, will not

be detained on the ground that they were carrying goods of enemy origin or enemy ownership longer than is necessary for the examination and verification of their papers.

18. Licensed goods shall mean:—

(a) Goods of Dutch origin in respect of which certificates of origin have been issued in joint collaboration by the Netherlands Customs Officials and the factory inspectors, and *visé* by the Committee for Dutch Overseas interests.

Such goods will be marked "A" on the Manifest.

(b) Goods of neutral origin which have been forwarded direct to the Netherlands for shipment. These goods must be shipped from Holland without being repacked and must be accompanied by a British or United States or French or Italian Consular certificate of origin establishing their neutral origin.

Such goods will be marked "B" on the Manifest.

(c) Goods accompanied by British, French, Italian, Portuguese or United States Consular certificates establishing to the satisfaction of the Committee that they are of British, French, Italian, Portuguese or United States origin.

Such goods will be marked "C" on the Manifest.

(d) Consignments for the carriage of which a permit has been issued by the I[nter-]A[llied] T[rade] C[ommittee].

Such goods will be marked "D" on the Manifest.

(e) (1). Manufactured articles, exported direct from the Netherlands in Dutch vessels to a Dutch Colony, of which not more than 25% of the value represents enemy labour employed in their manufacture or materials of enemy origin.

The N.O.T. will in every case guarantee that the articles are for consumption in the Dutch Colony to which they are consigned and will in no circumstances be transhipped or re-exported to any other destination.

Such goods will be marked "E" on the Manifest.

(e) (2). Manufactured articles exported from the Netherlands to any other destination, of which not more than 5% of the value represents enemy labour employed in their manufacture or material of enemy origin.

Such goods will be marked "EE" on the Manifest.

(f) Spare parts of machinery of enemy origin necessary for the proper working of machinery itself of enemy origin already installed in the Dutch Colonies.

Such goods will be marked "F" on the Manifest.

(g) The following drugs of enemy origin for *bona fide* consumption in the Dutch Colonies:—

Fermocyl tablets, fuchsin acid, orexin tannin, eugallol. (These drugs are at present unobtainable in sufficient quantities from neutral

or Allied sources but this clause is subject to revision should this cease to be the case.)

Such goods will be marked "G" on the Manifest, and the precise nature of the drugs will also be specified.

19. In any case of doubt as to the propriety of licensing the shipment of goods [of] other than purely Dutch origin the Trust shall furnish to the representative of the Associated Governments at The Hague on their request, a full explanation of the circumstances of the case at issue, together with all documents connected therewith and shall not license the shipment until the Associated Governments have signified their concurrence.

20. The operation of the various special agreements enumerated in the annexed list,⁶² except in so far as they are inconsistent with the terms of this Agreement, is not limited by this Agreement.

21. For the purpose of this Agreement, the term "countries at war with the Associated Governments" shall be deemed to include territory in the occupation of such countries.

22. All postal packets for the Netherlands of a value exceeding five pounds shall be consigned to the Trust and shall be subject to the usual guarantees: with the exception of:—

- (1) Parcels destined to prisoners of war.
- (2) Parcels destined to Diplomatic and Consular officials or other privileged persons.
- (3) Parcels licensed by the exporting Allied authorities destined to private individuals.

23. All communications between the Associated Governments and the Trust on the subject of or relative to this Agreement shall take place between the Trust and the representatives of the Associated Governments at The Hague.

24. This Agreement shall come into force on the date of its execution and shall continue until final ratification of the Treaty or Treaties of Peace by all the Associated Governments and the Central Powers unless previously terminated by mutual Agreement.

Cessation of this Agreement or termination or withdrawal under the terms of this Clause shall not affect obligations of the N.O.T. attaching under this Agreement to articles then already imported or shipped, and such obligations shall continue in force until three months after the final ratification of the Treaty or Treaties of Peace.

25. Power is reserved to the War Trade Board of the United States (an administrative agency acting pursuant to authority conferred upon it by the President of the United States pursuant to Acts of Congress) to adhere to the Agreement at any time within twenty-one days from this date, and if the War Trade Board give

⁶² Not printed.

to the N.O.T. notice of adherence it shall be deemed to be a party to this Agreement and included in the expression "Associated Governments", its obligations, however, under this Agreement being limited to such as may be assumed pursuant to the authority conferred upon the War Trade Board as aforesaid.

26. In the event of any of the parties to the General Agreement made between the Royal Netherlands Government and the British, French and Italian Governments and the War Trade Board of the United States, dated the 25th of November 1918 withdrawing from the said Agreement under the Provisions of Clause 18, then in such case any of the parties to this Agreement may give thirty days notice to withdraw from this Agreement and on the expiration of such period shall cease to be bound by this Agreement.

17th December 1918.

S. M. VALSTAR
L. WORTHINGTON EVANS
J. C. CHARPENTIER
F. GIANNINI

[Annex]

*Letter of Adherence by the War Trade Board to the Joint Agreement between the Governments of Great Britain, France, and Italy and the Netherlands Oversea Trust*⁶³

[LONDON,] December 30, 1918.

The War Trade Board of the United States, an Administrative Agency acting pursuant to authority conferred upon it by the President of the United States, pursuant to Acts of Congress, whose obligations assumed herein are limited to the granting of export licenses and the facilitating of exports from the United States, hereinafter referred to as the Board, adheres to the Agreement signed the 17th day of December, 1918, by the British, French and Italian Governments on the one hand, and the N[etherlands] O[versea] T[rust], hereinafter referred to as the Trust, on the other hand, subject to the following reservations and exceptions.

1. The Board, in so far as it becomes a party to the above Agreement by its adherence thereto, enters into the agreement severally and not jointly, the obligations which it assumes are several and not joint and the rights which accrue to it are, in like manner, several.
2. The examination of vessels referred to in Article 1, paragraph 1, of the above Agreement shall be construed, so far as the Board is con-

⁶³ Transmitted to the Trust by the War Trade Board representative at The Hague under date of Jan. 13, 1919; notification of the Trust's assent was reported by him, Jan. 18 (File No. 656.119/974).

cerned, to relate only to the examination of vessels in ports of the United States.

3. In lieu of Article 1, paragraph 2, of the Agreement, the Trust agrees with the Board as follows:—

Goods arriving in the Netherlands consigned to the Trust will not be withheld from delivery except where something unforeseen occurs between the time of the approval of the goods by one of the Allied Governments or the Board and their arrival in the Netherlands. In such case, the Allied Governments and the Board reserve the right to ask for the goods to be stored until the ratification of the Treaty of Peace, but the Allied Governments and the Board promise to restrict as far as possible the exercise of this right.

4. In lieu of Article 2 of the Agreement, the Trust agrees with the Board that every consignment of goods which it is proposed to ship to the Netherlands addressed to the Trust from any place of origin whatsoever excluding Norway, Denmark and Sweden, shall previously be submitted for the approval of the Associated Governments and the Board, except consignments shipped from countries where a system of control approved by the Associated Governments and the Board is or may be in operation and approved in accordance with such system of control.

5. Article 3 of the above Agreement shall be construed as obligating the Trust with respect to the Board only to the extent of recognizing the Enemy Trading List and the Confidential Lists of the Board, copies of which shall from time to time be furnished to the Trust by the Board.

6. The Board's adherence to the above mentioned Agreement does not include an adherence to Article 17 of such Agreement which Article shall be considered as eliminated from the Agreement so far as the Board is concerned.

7. The Board reserves the right to withdraw from its adherence to the above Agreement at any time upon thirty days notice to the Trust or after the final ratification of a Treaty of Peace by the Government of the United States without previous notice.

U. S. WAR TRADE BOARD

L. P. SHELDON

430

*The Secretary of the Navy (Daniels) to the Secretary of State*⁶⁴

WASHINGTON, January 6, 1919.

SIR: I have received your letter of December 28, 1918, No. So-763.72112/11092, relative to the inquiry of Mr. Frederick A. Pike of

⁶⁴ File No. 763.72112/11186; For. Rel., 1918, supp. 1, p. 931.

Saint Paul, as to the methods pursued by the American Navy during the war, and quoting an article in the *St. Paul Pioneer Press*.

The U. S. Navy, in its war operations, was guided by the *Instructions for the Navy of the United States governing Maritime Warfare*, issued in June, 1917, a copy of which is enclosed.⁶⁵ As will be noted in the introduction to this book, it was "prepared in accordance with international law, treaties, and conventions to which the United States is a party, the statutes of the United States, and, where no international agreement or treaty provision exists covering any special point, in accordance with the practice and attitude of the United States as hitherto determined by court decisions and Executive pronouncements."

The Navy Department has no knowledge of any violations of these Instructions by U. S. Naval vessels.

In general, U. S. Naval vessels in Europe carried out the following operations:—

- (a) A detachment of battleships operated with the British Grand Fleet from December, 1917, until December 1918. The mission of this force was to contain the German High Seas Fleet, or to engage it if opportunity offered.
- (b) A mine force was engaged from June, 1918, until November, 1918, in planting a mine barrage from Norwegian territorial waters to the Orkney Islands. This barrage was intended to prevent the exit of submarines from the North Sea. The barrage was planted in a duly proclaimed area.
- (c) Forces consisting of destroyers, yachts, gunboats, submarine chasers, and submarines operated from Queens-town, Plymouth, the coast of France, Gibraltar and Corfu. These vessels were engaged in escort duty for convoys and in direct operations against submarines.
- (d) U. S. Naval Air Stations were established in France, Ireland, England, and Italy for anti-submarine operations.
- (e) The forces in home waters were organized for anti-submarine work.
- (f) A division of battleships operated from Berehaven, Ireland, in October–November, 1918, as a protection for convoys against enemy raiders.

By the time the United States entered the war, all enemy surface craft, with the exception of an isolated raider in the Pacific, had disappeared from the sea, and the main naval effort was directed to anti submarine warfare.

Sincerely yours,

JOSEPHUS DANIELS

⁶⁵ Printed as document 261.

431

*The Secretary of the Navy (Daniels) to the Secretary of State*⁶⁶

WASHINGTON, February 20, 1919.

SIR: I have to acknowledge receipt of your letter dated January 30, 1919, So 763.72112/11186, in which you request to be informed whether the naval vessels of the United States cooperated with the British naval vessels in the execution of the plan of seizure and search which was contested in the note on the subject which the American ambassador at London on October 21, 1915, was instructed to deliver to the Foreign Minister of Great Britain, copy of which you enclosed. You also ask that your Department be furnished with additional information regarding the activities of the United States Navy during the war, with special reference to the matter of search and seizure discussed in the note to the British Government mentioned above.

As is well known to you, the Navy of the United States was associated in cooperation with the British, French, and Italian navies in order to bring about a successful conclusion to the war as far as such conclusion might be attained through lawful maritime operations.

Inasmuch as full and detailed reports of the operations of our several fleet units, major and minor, during the existing war have not yet been received, studied, and digested, it is not possible at the present time to state categorically that in no instance has a vessel of our Navy taken part, direct or indirect, in any matter of search and seizure of the character discussed in the State Department's note of October 21, 1915, addressed to the British Government.⁶⁷

I may, however, safely reiterate the statements concerning the war operations of United States naval vessels contained in my let-

⁶⁶ File No. 763.72112/11598; For. Rel., 1918, supp. 1, p. 933.

⁶⁷ In reply to an inquiry of Feb. 25, 1929, designed to complete the information on this subject, the following letter from the Secretary of the Navy was received on Apr. 1, 1929 by the Secretary of State (File No. 763.72112/12944):

WASHINGTON, March 30, 1929.

SIR: The receipt is acknowledged of your letter of February 25, 1929, wherein you refer to the letters of the Secretary of the Navy of July 5, 1918, and February 20, 1919, on the subject of visit and search and request reply to the following questions:

"1. Was the belligerent right of visit and search of neutral ships ever actually exercised by vessels of the United States Navy during the war with Germany, 1917-18?

"2. Were any neutral ships or cargoes brought into port by vessels of the United States Navy during that war for adjudication as prizes?

"3. Were there any cases of search and seizure of the kind contested in the American note of October 21, 1915?"

The general policy of the U. S. Navy during the World War as to visit and search is indicated by the *Instructions for the Navy of the United States Govern-*

ter to you under date of January 6, 1919, a copy of which is enclosed herewith.

As being of interest, and of possible elucidation in the matter under consideration, I give you the substance of a memorandum prepared in the Office of Naval Operations, which may furnish some explanation affecting *apparent* coercion of merchant vessels in relation to ports of call, travel in convoy, diversion from usual routes, points of rendezvous, and so forth.

From and after May, 1917, convoys of merchant vessels were permitted to assemble in our ports, proceeding therefrom under escort and according to convoy rules issued by the British Admiralty and approved by our Navy Department; it does not appear that any of these rules were in conflict with the principles contended for in the diplomatic note of October 21, 1915.

Vessels traveling in convoy were required to follow certain routes, and in some cases were required to put into a port of call prior to

ing Maritime Warfare, June 1917, and by Alnav No. 78, of 21 May 1918, which reads as follows:

"Commanders of all Naval vessels shall whenever possible take necessary steps to assure themselves of the character of all vessels sighted on the high seas in accordance with international law and usage."

As an example, however, of the limitations upon visit and search which were recognized by United States naval officers during the war, the *Bainbridge* incident may be mentioned. On March 6, 1918, the U. S. S. *Bainbridge* was dispatched from Gibraltar by Senior Naval Officer (British) under secret orders to intercept the Spanish S. S. *Reina Victoria Regina*, search for a passenger named Otto David, alias David Grundland or Grunland, and to arrest him and bring him to Gibraltar if found. When the then Commander of the U. S. Patrol Squadrons based on Gibraltar, Rear Admiral A. P. Niblack, learned of these orders he protested and requested that the orders be revoked, which was done. A few days later the British Senior Naval Officer at Gibraltar received instructions from the British Admiralty that U. S. vessels should not be employed in removing enemy or other persons from neutral vessels.

Referring specifically to the three questions raised by the Secretary of State, I have the honor to state as follows:

The answer to the first question is, yes. The right of visit and search of neutral ships was exercised by the U. S. Navy constantly during the war, the following cases being cited among many:

Danish schooner *Salus*, boarded by U.S.S. *Rochester*, May 3, 1918, in mid-Atlantic.

Holland-American S.S. *Maartensdyk*, boarded by the U.S.S. *Craven*, April 24, 1917, seven miles west of Nantucket;

Mexican schooner *San Cosme*, searched by U.S.S. *Brutus*, February 15, 1918, en route Acapulco to Manzanillo, Mexico.

Spanish S.S. *Leon XIII*, searched by U.S.S. *Pittsburgh*, April 22, 1918, six miles off Santa Maria light, Uruguay.

The answer to the second question is that there is no record in the Navy Department of any neutral ship or cargoes being brought into port by vessels of the U. S. Navy during the World War for adjudication as prizes.

The answer to the third question is that there is no record in the Navy Department of any case of search and seizure by vessels of the U. S. Navy of the kind contested in the American note of October 21, 1915, found in *Foreign Relations*, 1915 Supplement, pages 578-589.

Trusting that the foregoing furnishes the information desired relative to this subject, I am [etc.]

C. F. ADAMS
Secretary of the Navy

the port of ultimate destination; but the only grounds for such definition of route or for putting into a port of call in which we concurred were for the purpose of giving safe routing instructions through dangerous sea areas, or for the purpose of furnishing escort, or for modified orders concerning destination.

Concerning routing instructions: the reason for establishing definite routes for vessels was solely for the purpose of making the voyage as safe as possible from enemy activities. In order to warn vessels of dangers in their presumed or established routes we required them to speak our Speaking Stations along the coast. We also concurred in British Admiralty instructions requiring vessels on long voyages to stop at some outlying routing station if they had sailed from a port at which no routing officer was stationed. At times this requirement caused diversion from the direct route to destination; but the only purpose for this diversion in which we concurred was to enable the vessel concerned to pursue a safe route.

Prior to the beginning of German submarine activity along our Atlantic coast about the first of June, 1918, this Department gave no routing instructions at all except to our men of war going abroad; instructions for these vessels were in accord with advices received from the Commander of U. S. Naval Forces Operating in European Waters. Before that time we concurred in and indorsed the British routing instructions by allowing their routing officers to be established in our ports and by advising American vessels to obtain routing instructions from these officers. In all such cases, however, the only purpose for which we indorsed the routings was in order to furnish such vessels the safest possible course through waters rendered dangerous by the activities of the enemy. They were never indorsed for the purpose of causing vessels to be taken into port with the object of visit and search therein. Routing instructions were in all cases secret and committed to paper to the very smallest extent; no copies of such instructions are available for consultation at the present time.

In the course of study for the preparation of this reply to your letter a vague impression has been gained that some of the instructions given or concurred in by this Department may have required merchant vessels under the Spanish flag to obtain final clearance at New York upon their voyage from the West Indies to Europe; I have not, however, anything definite on this subject, and I should be glad to receive from you any specific instance of which you may possess knowledge tending to confirm this vague impression in order that if there be cause for such it may be further investigated.

Very respectfully,

JOSEPHUS DANIELS

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